

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF NEW YORK**

REV. STEVEN SOOS, REV. NICHOLAS STAMOS,)
JEANETTE LIGRESTI, as parent and guardian of infant)
plaintiffs P.L. and G.L., DANIEL SCHONBRUN,)
ELCHANAN PERR, MAYER MAYERFELD, MORTON)
AVIGDOR,)

Plaintiffs,)

v.)

ANDREW M. CUOMO, Governor of the State of New York, in)
his official capacity; LETITIA JAMES, Attorney General of the)
State of New York in her official capacity; KEITH M.)
CORLETT, Superintendent of the New York State Police, in his)
official Capacity; HOWARD A. ZUCKER, M.D., New York)
State Commissioner of Health, in his official capacity; BETTY)
A. ROSA, Interim Commissioner of the New York State)
Education Department, in her official capacity; EMPIRE)
STATE DEVELOPMENT CORPORATION (“ESD”), a New)
York State Public Benefit Corporation; BILL DE BLASIO,)
Mayor of the City of New York, in his official capacity; DR.)
DAVE A. CHOKSHI, New York City Commissioner of Health,)
in his official capacity; TERENCE A. MONAHAN, Chief of)
the New York City Police Department, in his official capacity;)
RICHARD CARRANZA, Chancellor of the New York City)
Department of Education in his official capacity.)

Defendants.

Case No.
1:20-cv-00651-GLS-DJS

**FIRST AMENDED VERIFIED COMPLAINT FOR
INJUNCTIVE AND DECLARATORY RELIEF**

Plaintiffs, by and through their counsel, complain as follows:

NATURE OF ACTION

1. This First Amended Complaint adds new parties and further claims in this civil rights action, which challenges a series of executive orders issued by defendant Governor Andrew M. Cuomo (Cuomo) in an unprecedented and continuing abuse of power, premised on his original

declaration of a “disaster emergency” in Executive Order 202 issued seven months ago, on March 7, 2020, under the purported authority of § 28 of Article 2B of the New York Executive Law.

2. This Amended Complaint adds claims concerning Cuomo’s “Cluster Action Initiative” (CAI), which he announced less than 96 hours ago, on October 5, 2020, and promulgated 72 hours ago, on October 6, 2020 via Executive Order 202.68. Ex. 1-1.

3. Although, as shown below, deaths and hospitalizations attributed to COVID-19 peaked in April and declined to statistical zero months ago, eliminating any objective medical or scientific basis for a continuing “disaster emergency,” EO 202.68 now decrees that the entire State of New York is to be divided into Red, Orange and Yellow “zones” based on nothing more than a handful of positive COVID-19 test results of dubious validity, involving people who are largely asymptomatic and may not even know they have the virus or some remnant of it in their systems but are now misleadingly called “cases” of COVID-19.

4. As pleaded more particularly below, in Cuomo’s new “Red Zone,” based on a few positive COVID-19 tests of random people who made the mistake of cooperating with Cuomo’s testing regime, churches and synagogues are limited to merely ten people indoors, while religious schools are closed entirely. Also entirely banned are “non-essential” outdoor religious gatherings under threat of a \$15,000 fine for anyone who organizes, promotes or even **encourages** such gatherings. In the Red Zone churches, synagogues, and religious schools are banned as “non-essential” gatherings, while in the Orange Zone religious schools are still banned and houses of worship are subject to onerous new restrictions on their operation.

5. Infant plaintiffs G.L and P.L., Schonbrun, Perr, Mayerfeld and Avigdor all reside, worship and educate their children in Cuomo’s “Red Zone” as established in Brooklyn based on a

handful of positive COVID-19 tests called “cases” of the virus that supposedly constitute “hot spots.”

6. Plaintiffs Schonbrun, Perr, Mayerfeld and Avigdor are thus now deprived of Orthodox Jewish worship in their synagogues in the midst of the Holiday of Sukkot, one of the most important Jewish festivals, which began this year on Friday evening October 2nd and ends on Sunday night, October 11, as well as Jewish religious worship and education for their children in Jewish schools.

7. Infant plaintiffs P.L and G.L. are thus now deprived of Catholic worship in their church and Catholic worship and education in the appurtenant Catholic school.

8. Plaintiffs Soos and Stamos, while not yet located in one of Cuomo’s new “zones,” could be assigned to one at any moment and be subjected to new restrictions on their constitutional rights.

9. Plaintiffs seek emergent injunctive relief by way of a temporary restraining order, followed by a preliminary and final injunction against enforcement of the CAI and EO 202.68, which represents not only an entirely new deprivation of constitutional rights but is also, in certain of its elements, evidently contemptuous of this Court’s injunctive order of June 26, 2020.

ADOPTION OF ORIGINAL COMPLAINT

10. To avoid needless burdening of the record, plaintiffs hereby adopt and incorporate by reference the allegations and claims of the original Complaint, ECF No. 51, as supplemented by factual and legal developments since its filing on June 10, 2020 and the injunctive Order and Decision of this Court, issued June 26, 2020. *See* ECF No. 35. The later developments and related new claims are the subject of this First Verified Amended Complaint.

11. In particular, plaintiffs adopt and incorporate by reference the following portions of the original complaint: (a) ¶¶ 28-163 (factual and legal allegations) and (b) all exhibits annexed to the Complaint as they appear in the electronic docket, to which this Amended Complaint shall make reference by ECF document number.

12. The Counts in this Amended Complaint will recapitulate those of the original complaint, while incorporating the additional allegations and claims presented herein, including those respecting the CAI, which commence at ¶ 64.

PARTIES

13. Plaintiff Rev. Steven Soos is a Catholic priest who engages in priestly ministry in a main church and other chapels located in this District in the North Country region of the state.

14. Plaintiff Rev. Nicholas Stamos is a Catholic priest who assists Rev. Soos in said priestly ministry.

15. Infant plaintiffs G.L and P.L. are sincere practitioners of the Catholic faith. They attend a Catholic school and a Catholic church located in Brooklyn, where they reside with their parents.

16. Plaintiff Mayer Mayerfeld is a sincere practitioner of the Orthodox Jewish faith who resides in Brooklyn, New York.

17. Plaintiff Elchanan Perr is a sincere practitioner of the Orthodox Jewish faith who resides in Brooklyn, New York.

18. Plaintiff Daniel Schonborn is a sincere practitioner of the Orthodox Jewish faith who resides in Brooklyn, New York.

19. Plaintiff Morton Avigdor is a sincere practitioner of the Orthodox Jewish faith. He is President of Congregation Ahavas Dovid, and Orthodox Jewish synagogue located in Brooklyn.

20. Defendant Cuomo is the Governor of the State of New York. He is the State's chief executive and enforcer of the challenged executive orders and other laws of the State of New York, including the offenses and penalties he has created under his executive order regime and the newly announced CAI, and whose enforcement he specifically directs, as more particularly pleaded below. At all times pertinent to this Complaint, Cuomo is and was acting under color of State law and in his official capacity. Defendant Cuomo's principal place of business is located at the State Capitol Building, Albany, New York. He is sued in his official capacity.

21. Defendant James is and was the Attorney General for the State of New York, the State's highest-ranking law enforcement officer charged with overall supervision of the enforcement of the challenged executive orders and other laws of the State of New York, including the CAI. At all times relevant to this Complaint, James is and was acting under color of State law and in her official capacity. Defendant James' principal place of business is located at the State Capitol Building, Albany, New York. She is sued in her official capacity.

22. Defendant Corlett is the Superintendent of New York State Police. He is responsible for implementing and overseeing defendant Cuomo's statewide enforcement of the challenged executive orders, including the CAI. At all times relevant to this Complaint, Corlett is sued in his official capacity. Defendant Corlett's principal place of business in this District is located at 1220 Washington Ave., Bldg. 22, Albany, New York.

23. Defendant Zucker is New York State Commissioner of Health. He is responsible for implementing and overseeing defendant Cuomo's statewide enforcement of the challenged executive orders, including EO 202.68 and the CAI, as well as the deployment of Health Department "monitors" to enforce compliance with "social distancing" and the wearing of "face coverings." He is sued in his official capacity. Defendant Zucker's principal place of business in

this District is located at New York State Department of Health, Corning Tower, Empire State Plaza, Albany, NY.

24. Defendant Betty A. Rosa (Rosa) is Interim Commissioner of the New York State Education Department. Rosa is responsible for enforcement Cuomo's executive orders, including the CAI, as they affect public and private schools, including the State's "guidance" for private and religious schools issued pursuant to Cuomo's executive orders. She is sued in her official capacity. Rosa's principal place of business is 89 Washington Ave, Albany, NY 12234.

25. Defendant Empire State Development Corporation (ESD) is a New York State Public Benefit Corporation with principal offices located at 633 Third Avenue, City of New York, State of New York. Under Cuomo's direction and authority, ESD is responsible for publishing "guidance" documents that implement Cuomo's executive orders, including restrictions on religious and other "non-essential" gatherings under the CAI and otherwise.

26. Defendant Mayor Bill de Blasio is Mayor of the City of New York, where plaintiffs Schonbrun, Perr, Mayerfeld and infant plaintiffs G.L and P.L. reside. De Blasio is the final decision-maker in New York City concerning enforcement of the challenged executive orders, including the CAI and his own executive orders paralleling those issued by Cuomo. He is sued in his official capacity.

27. Dr. Dave A. Chokshi (Choksi) is the New York City Commissioner of Health. Choksi is responsible for enforcement of Cuomo's executive orders, including the CAI, in New York City. He is sued in his official capacity. His principal place of business is the New York City Department of Health, 455 1st Avenue, New York, NY 10016.

28. Terence A. Monahan (Monahan) is Chief of the New York City Police Department. Monahan is responsible for enforcement in the City of Cuomo's executive orders, including the

CAI, and de Blasio's parallel executive orders. His principal place of business is 1 Police Plaza, New York, NY 10038. Monahan is sued in his official capacity.

29. Richard Carranza (Carranza) is Chancellor of the New York City Department of Education. Carranza is responsible for enforcement in New York of City of Cuomo's executive orders, including the CAI under EO 220.68, and de Blasio's parallel executive orders as they affect public and private schools, including the State's "guidance" for private and religious schools issued pursuant to Cuomo's executive orders. Carranza is sued in his official capacity. Carranza's principal place of business is 52 Chambers St, New York, NY 10007.

30. All of the aforesaid defendants have acted and are acting at all pertinent times under color of state law.

JURISDICTION AND VENUE

31. This action raises federal questions under the First and Fourteenth Amendments of the United States Constitution and under federal law, 28 U.S.C. §§ 2201 and 2202 (Declaratory Judgments), as well as 42 U.S.C. §§ 1983, 1988, and 1920.

32. This Court has jurisdiction over these federal claims under 28 U.S.C. §§ 1331 and 1343.

33. This Court has authority to grant the requested injunctive relief under 28 U.S.C. § 1343(3), the requested declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, and plaintiffs' prayer for costs, including reasonable attorneys' fees, under 42 U.S.C. § 1988 and 28 U.S.C. § 1920.

34. Pursuant to 28 U.S.C. § 1367, the Court has supplemental and pendent subject matter jurisdiction over the state law claims asserted by plaintiffs because the state law claims, based upon defendants' violations of New York State Executive Law § 29-a, are so related to the other

claims in this action over which the Court has original subject matter jurisdiction, and arise from a common nucleus of operative facts, that the State law claims form part of the same case or controversy under Article III of the United States Constitution.

35. Venue is proper in the Northern District pursuant to 28 U.S.C. § 1391, as five of the defendants reside in this District and a substantial part of the events giving rise to the claims herein arose in this District.

FACTS COMMON TO ALL COUNTS

“I have to say to the Orthodox community tomorrow, if you’re not willing to live with these rules, then I’m going to close the synagogues... I’m going to say to the Orthodox community tomorrow, if you don’t agree, then we will have to close down your religious institutions.”

“If the religious leaders do not agree to abide by these rules then we will close the religious institutions, period.”

Andrew M. Cuomo
October 5, 2020

The Endless, Ever-Expanding “Disaster Emergency”

36. On June 26, this Court granted preliminary injunctive relief invalidating Cuomo’s numerical limits on outdoor gatherings as enumerated in the original complaint.

37. The Court granted this relief following Cuomo’s and defendant de Blasio’s endorsement of mass demonstrations numbering in the tens of thousands, packed into small spaces, while they forbade high school graduations, funerals and other comparatively miniscule outdoor gatherings under Cuomo’s executive orders banning or strictly limiting “non-essential gatherings.”

38. This Court further enjoined Cuomo and de Blasio from enforcing Cuomo’s restriction of indoor religious gatherings alone to 25% of building capacity, mandating that he and his subordinates afford indoor religious gatherings the same capacity limitation afforded to “Phase Two industries,” which was 50% to 100%, depending on the industry, with no numerical cap.

39. Since the date of this Court’s injunction, the whole of the State of New York was supposed to have entered the final Phase Four of the NYFP, with ad hoc adjustments in certain areas dictated by Cuomo according to his unfettered discretion—e.g., no indoor dining in New York City despite its allowance elsewhere in Phase Four.

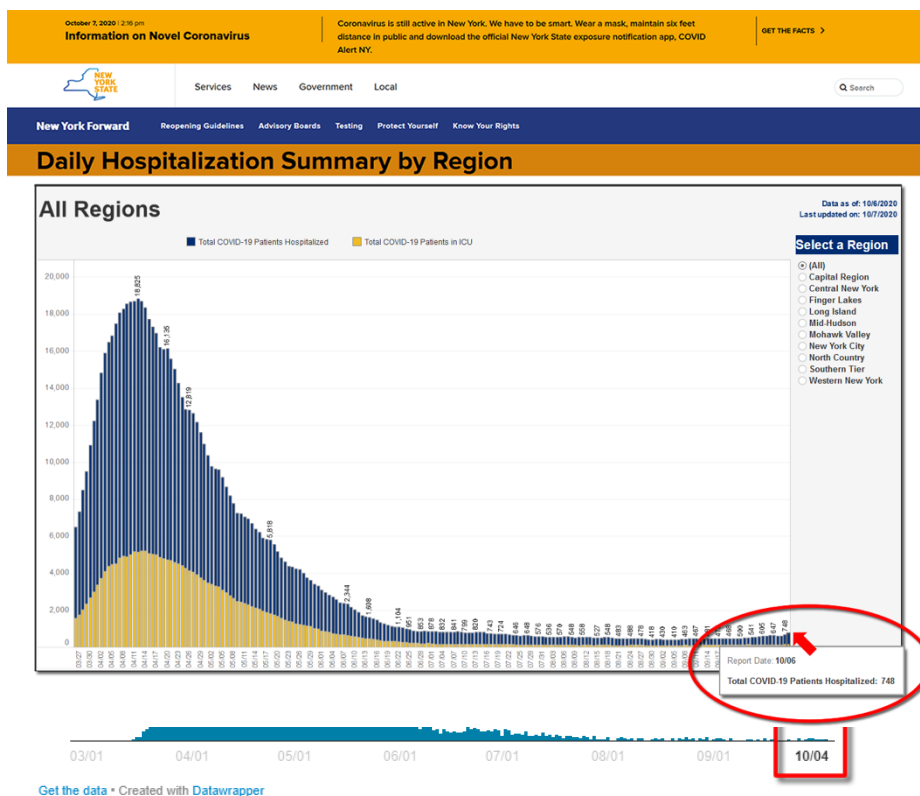
40. Not even under Phase Four, however, has Cuomo permitted a full restoration of the constitutional rights of New York’s residents, including plaintiffs. Seven months after the virus first appeared in New York State, religious and funeral services under Phase Four are uniquely confined to 33% of indoor capacity according to the State’s “Guidance” document—despite this Court’s injunction—while numerous other activities, including “essential retail” and office environments, are allowed either 100% or 50% of indoor capacity. *See* Exhibit 2-1.

41. Yet, as of the date of this Complaint, both deaths and hospitalizations attributed (however loosely) to the virus have declined to statistical zero in both New York State and New York City, where those data have remained for months. The number of daily deaths **attributed**



(however loosely) to COVID-19 in the state has been plummeting since mid-April and now stands at statistical zero, with a grand total of 9 deaths out of 19,000,000 people on October 7:

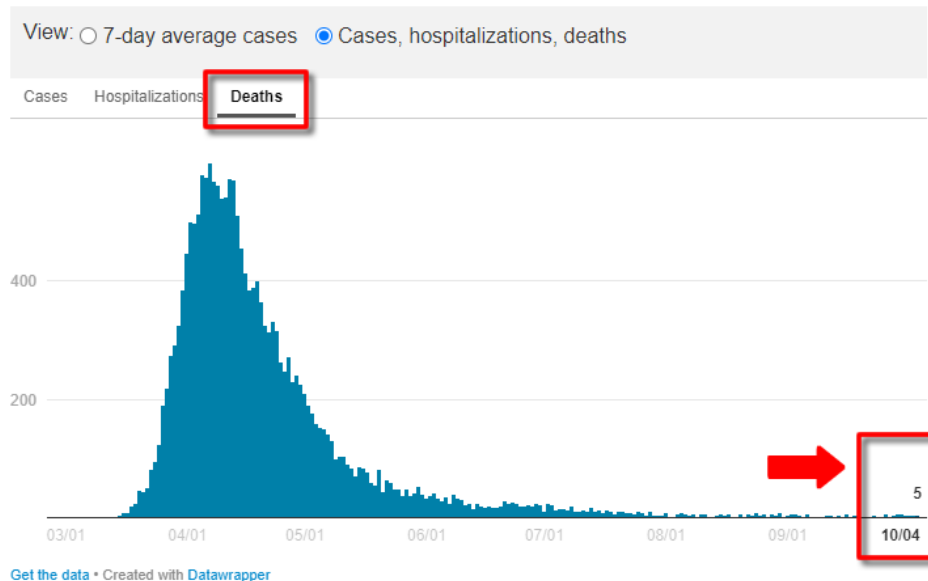
42. The same is true of COVID-“related” hospitalizations, which stood at a mere 748 out of 19,000,000 inhabitants of New York as of October 6, the very day the CAI was launched:



43. In New York City, following the same peak in April, deaths are likewise at statistical zero since mid-June, with 5 deaths in the City on October 4 (*see* Exhibits 2-4 and 2-5):

Daily Counts

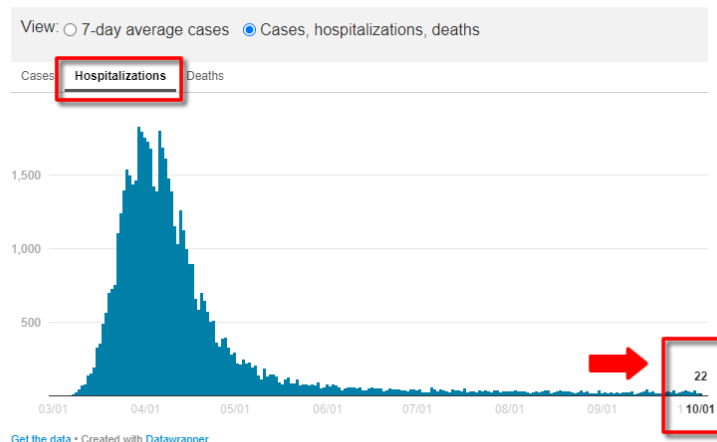
This chart shows the number of confirmed cases by diagnosis date, hospitalizations by admission date and deaths by date of death from COVID-19 on a daily basis since February 29. Due to delays in reporting, which can take as long as a week, recent data are incomplete.



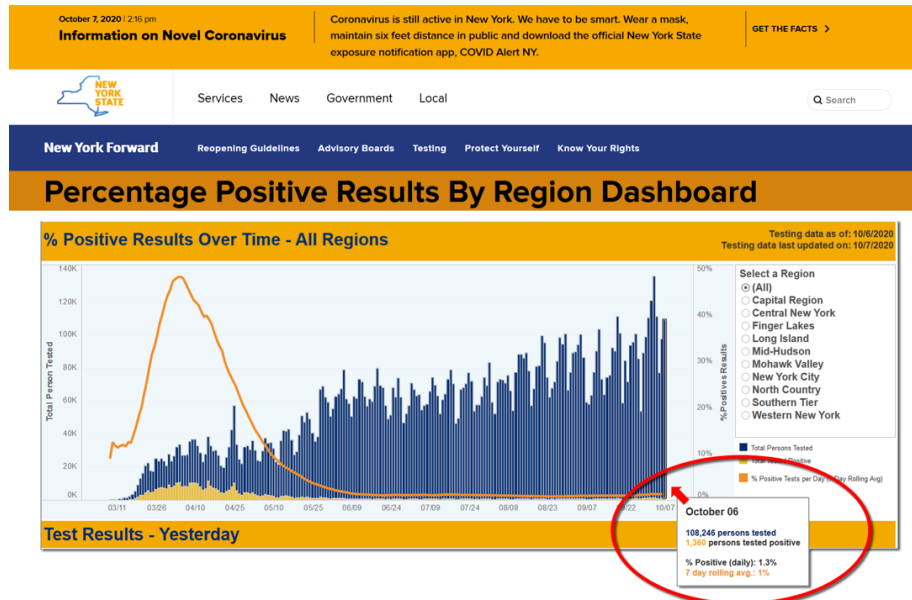
44. New York City hospitalizations “related” to COVID-19 have followed the same inexorable trend toward zero since mid-April, with 22 COVID-“related” hospitalizations out of 9,000,000 inhabitants of the City as of October 1 (*see* Exhibit 2-6):

Daily Counts

This chart shows the number of confirmed cases by diagnosis date, hospitalizations by admission date and deaths by date of death from COVID-19 on a daily basis since February 29. Due to delays in reporting, which can take as long as a week, recent data are incomplete.

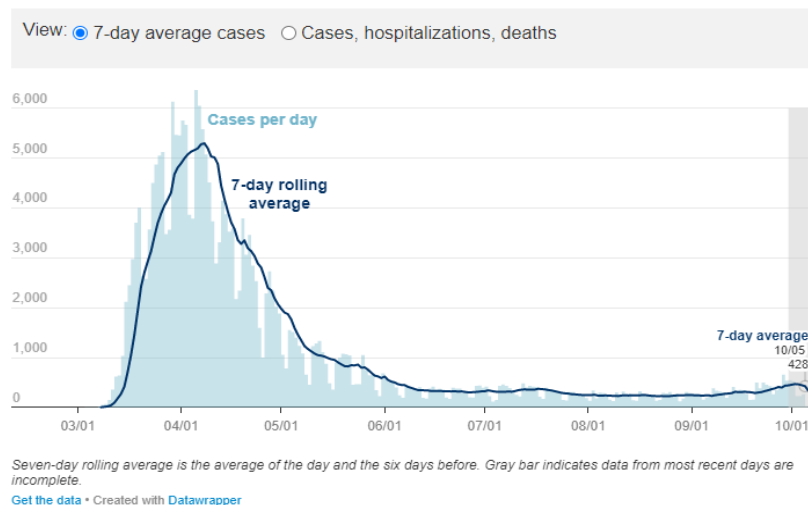


45. Even the misleading statistic of COVID-19 “cases,” meaning only dubiously reliable (see below) positive test results of random people without concomitant hospitalization, death or even active illness, peaked in April and reached statistical zero in June in both New York State and New York City, even though this statistic is now the only basis for the CAI. This is shown in the following two extracted from Exhibits 2-7 and 2-2 to this Complaint:



Daily Counts

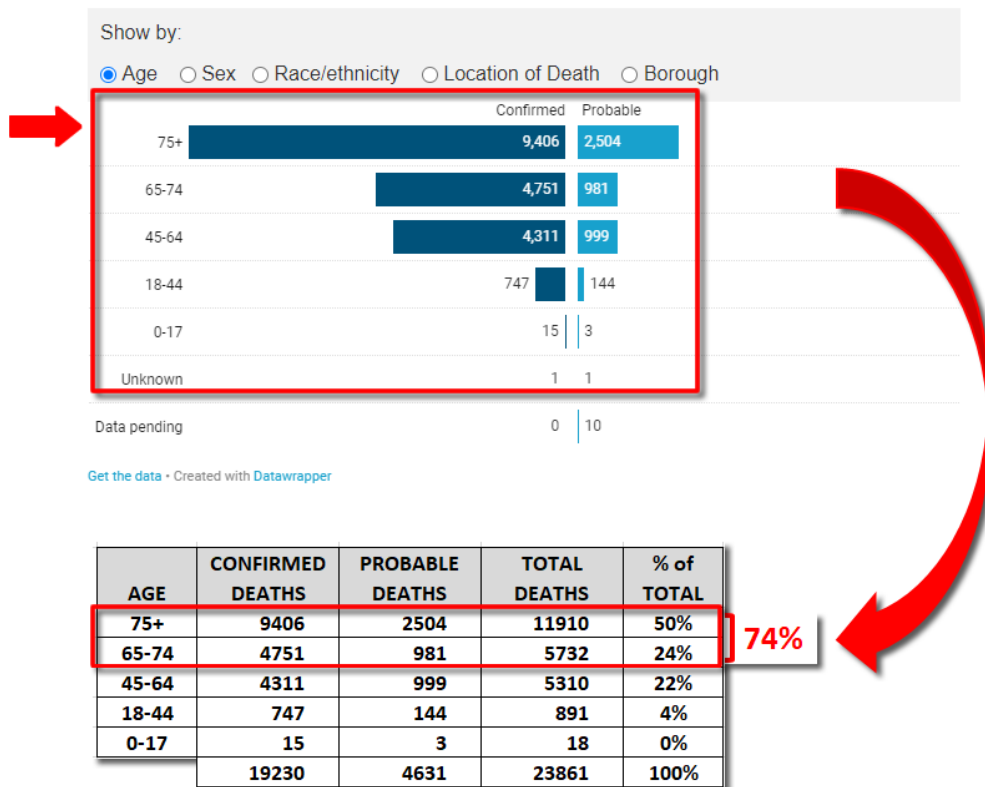
This chart shows the number of confirmed cases by diagnosis date, hospitalizations by admission date and deaths by date of death from COVID-19 on a daily basis since February 29. Due to delays in reporting, which can take as long as a week, recent data are incomplete.



46. Given that a total of 25,479 deaths in New York State have been attributed to COVID-19 as of September 30, according to Cuomo's own update, Exhibit 2-14, the COVID-19 pandemic that began in April and is now clearly spent has claimed barely over **1/10th of 1%** (0.00130) of New York's total population of 19,450,000 (25,479/19,450,000). The vast majority of those deaths are among those aged 65 and older with literally zero risk to children (*see* Exhibit 2-5):¹

Confirmed and Probable Death Totals

Data on probable deaths that are missing demographic information are classified as "Data Pending".



¹/ See <https://www.statista.com/statistics/1109867/coronavirus-death-rates-by-age-new-york-city/> for original source from which this chart has been extracted.

47. As these data show conclusively, there is no longer any rational or factual basis for perpetuating a state of “disaster emergency” involving the suspension of the constitutional rights in New York State or New York City.

48. Since the date of this Court’s injunction, however, Cuomo has only expanded his quasi-monarchical rule over the State of New York, even as the COVID-19 outbreak dwindles toward the vanishing point and no longer poses any credible threat to the general population or the capacity of the health care system.

49. The “disaster emergency” declared in Order 202 has lasted more than 214 days and now threatens to become a new status quo, as Cuomo’s justification for it has constantly shifted: from “bending the curve” of the epidemic in order to prevent the overrunning of hospitals, to “limiting the spread” of the virus—without regard to whether people to which it spreads are adversely affected or just asymptomatic—to preventing a hypothetical “second wave.”

50. Cuomo now takes the position that it is not the virus itself that will cause the “second wave” but “cases” in the South and West of America. Cuomo declared on July 17 that an “outbreak” of “cases” anywhere in the country—asymptomatic, never-treated subjects who merely test positive—is an “outbreak” in New York that constitutes a continuing emergency:

What we're really looking at now is the potential of a second wave - not the second wave that we originally discussed. The second wave that we originally feared was from the theory of the 1918 pandemic where there was Phase One and then the virus mutated and came back in Phase Four. That's not what we're looking at here. *This second wave would be man-made, not made by Mother Nature. It would not be mutation of the virus.* It would be a wave that comes from the West and the South, a southwesterly wave that comes back to New York from the increase [of “cases”] in the other states. **We are painfully aware now that an outbreak anywhere is an outbreak everywhere..** (emphasis added here and throughout this Amended Complaint)^{2/}

^{2/} See Transcript of July 17 press briefing: <https://www.governor.ny.gov/news/governor-cuomo-announces-new-york-city-cleared-global-health-experts-enter-phase-four-reopening>

51. Citing the “infection rate” in other states—meaning, again, the percentage of positive test results misleadingly categorized as “cases”—Cuomo issued Executive Order 205^{3/} June 24. EO 205 blatantly interferes with freedom of movement and interstate travel by requiring that anyone arriving in New York from “a state with a positive test rate higher than 10 per 100,000 residents, or higher than a 10% test positivity rate, over a seven day rolling average, will be required to quarantine for a period of 14 days.” Cuomo’s list of “restricted states” now stands at 35 as of October 6.^{4/}

52. This brazen declaration of a virtual nationwide travel ban by a lone governor was followed by Cuomo’s Executive Order 205.1,^{5/} issued September 28, in which he interferes with international travel, imposing a 14-day quarantine on anyone arriving in New York “from any country with a CDC Level 2 or Level 3 health notice.” The list of countries subject to Cuomo’s international travel ban now includes “all but 31 countries on the globe.”^{6/}

53. In this regard, Cuomo imagines he is in command of a “valve” he can open or close at will in order minutely to control the seemingly endless waxing and waning of COVID-19 “cases” by adjusting what is allowed and what is forbidden to New Yorkers as he sees fit, based on “the numbers.” For example, as Cuomo informed the press on July 6:

It’s what we said from day one with my great graphic that nobody liked at the time I originally did it and nobody still likes, but I like it, so sometimes it’s nice to be Governor. **You have a valve: Control the activity and watch, monitor the valves to see if the infection rate is going up, the hospitalization rate is going up and keep your hand on the valve. If you see it start to go up, slow down the valve.** If you don’t see the numbers going up, then you can open up the economic activity valve.

^{3/} See <https://www.governor.ny.gov/news/no-205-quarantine-restrictions-travelers-arriving-new-york>

^{4/} See <https://coronavirus.health.ny.gov/covid-19-travel-advisory>

^{5/} See <https://www.governor.ny.gov/news/no-2051-quarantine-restrictions-travelers-arriving-new-york>

^{6/} See <https://coronavirus.health.ny.gov/covid-19-travel-advisory>

That's what we've been doing and that's what you see with these little corrections. New York City goes into Phase Three, but no indoor dining. We have the phases and then we have certain adjustments that we make to the phases. The numbers show you that we are right where we want to be. New York City goes into Phase Three today, no indoor dining. There are rules on Phase Three—it doesn't mean go out and have a party. We have 50 percent occupancy for personal care services. You have to wear face coverings, customers must wear face coverings, 6-foot distance.^{7/}

54. As Cuomo further observed on that occasion, his “valve” was “tightened” to close personal care facilities so that he was deprived of a facial he had planned for himself: “Prohibited services [sic] that require the removal of face coverings, such as facials, you can’t get a facial. **I did that against my own self-interest. I was supposed to get a facial today.** Closed the waiting rooms.... There are rules.” (emphasis added)

A “Casedemic” Replaces the Pandemic

55. No longer able to document his claim of a statewide “health emergency” with a statistically significant number of COVID-caused deaths or hospitalizations in a population of 19,000,000, Cuomo has quietly replaced the COVID-19 pandemic with a COVID-19 “casedemic.” He now describes anyone who tests positive for the virus as a “case” of COVID-19, even if the person tested is asymptomatic or only mildly affected, never required hospitalization or even a doctor’s visit, **or never even knew he had the virus.**

56. Even if mere positive tests for a virus without concomitant illnesses or hospitalizations constituted a public health emergency, the testing dataset is itself fraught with reliability problems. For example, in experiments utilizing samples taken from subjects who had submitted to the CDC’s “gold-standard” Reverse Transcriptase Polymerase Chain Reaction (PCR)

^{7/} See Transcript, of July 6 press briefing: <https://www.governor.ny.gov/news/video-photos-audio-rush-transcript-governor-cuomo-announces-new-york-city-enters-phase-iii>

test, board-certified Pathologist Dr. Sin Hang Lee demonstrated that the PCR test yielded a distressingly high incidence of misdiagnosis. Beyond unreliable results, Dr. Lee’s study also revealed that the CDC’s sample labels were also unreliable, with some samples labeled “CDC-test-positive” being negative, and vice versa.⁸ Dr. Lee warns that “a positive test result must be substantiated by a DNA sequencing electropherogram showing the genomic fingerprints of the virus. **False-positive test reports can easily create unnecessary panic resulting in negative impacts on local economies.**”

57. As Dr. Lee here suggests, the problem with Newsom’s “casedemic” goes far beyond unreliable PCR test results. There is the bigger problem of “positive” results that are epidemiologically worthless because the result does not indicate an active infection—the genomic fingerprints of the virus—and thus only causes public hysteria, exploited to oppress millions with unconstitutional restrictions of fundamental rights, including the worship of God.

58. As *The New York Times* has just revealed, PCR testing is being abused to maximize the number of “cases” **where there is no viral load sufficient to warrant medical concern.** This is done by running, not 30 PCR cycles, as Dr. Lee’s study notes, but 40 or more cycles until some arguable remnant of the virus is found, which is then simply reported as a “positive” without providing the cycle threshold (C.T.) values. (Ex. 4-6.) The *Times* cites Harvard epidemiologist Dr. Michael Mina concerning testing in Massachusetts, where “**from 85 to 90 percent of people who tested positive in July with a cycle threshold of 40 would have been deemed negative if the**

⁸ (Sin Hang Lee, *Testing for SARS-CoV-2 in cellular components by routine nest RT-PCR followed by DNA sequencing* (Jul. 17, 2020) INTERNATIONAL JOURNAL OF GERIATRICS AND REHABILITATION, 2(1):69–96, <https://bit.ly/3gTvZOB>.)

threshold were 30 cycles... ‘I would say that none of those people should be contact-traced, not one,’ he said.”⁹ Dr. Mina would set the cycle threshold at 30 or even less. *See* Exhibit 3-8.

59. **“I’m shocked that people would think that 40 [cycles] could represent a positive,”** said Dr. Juliet Morrison, a virologist at the University of California at Riverside to the *Times*. The *Times* also quotes Angela Rasmussen, a virologist at Columbia University, who protests: **“It’s just kind of mind-blowing to me that people are not recording the C.T. values from all these tests—that they’re just returning a positive or a negative.”** *Id.*

60. Citing Dr. Mina, the *Times* exposé reported only a month ago (August 29) that the result of this abuse is a wildly inflated number of “cases” that poses no threat to public health:

In three sets of testing data that include cycle thresholds, compiled by officials in Massachusetts, New York and Nevada, **up to 90 percent of people testing positive carried barely any virus...** On Thursday (August 27, 2020), the United States recorded 45,604 new coronavirus cases, according to a database maintained by The Times. If the rates of contagiousness in Massachusetts and New York were to apply nationwide, then perhaps only 4,500 of those people may actually need to isolate and submit to contact tracing... **Tests with thresholds so high may detect not just live virus but also genetic fragments, leftovers from the infection that pose no particular risk—akin to finding a hair in a room long after a person has left,** Dr. Mina said.

61. As the *Times* concluded: “But with 20 percent or more of people testing positive in some parts of the country, Dr. Mina and other researchers are questioning the use of PCR tests as a frontline diagnostic tool.” *Id.*

⁹ “Contact tracing” for a virus that has already spread to millions of asymptomatic Americans is just as pointless as widespread hypersensitive PCR testing. Common sense shows the absurdity of tracking down a tiny segment of COVID-19-infected people in a sea of millions of infections. As *The New York Times* observed of the effort on July 31: “The virus’s pervasiveness and major lags in testing have rendered the system almost pointless.” (Jennifer Steinhauer & Abby Goodnough, “Contact Tracing Is Failing in Many States. Here’s Why, (July 31, 2020) <https://nyti.ms/3motjmb>). Not almost pointless, but entirely so. Pointless “contact tracing” does, however, supply an excuse to prolong Cuomo’s COVID-19 dictatorship.

62. Based solely on testing whose reliability and utility are seriously in question, however, New York’s health bureaucracy now declares that there are 472,994 “cases” of COVID-19 in the state as October 7 based more than 10 million tests performed. There are probably hundreds of thousands more such “cases” to be found by the same relentless testing regime.

63. The only point of the testing is to find “cases” of COVID-19 in people who aren’t sick in order to perpetuate an “emergency” and an unconstitutional dictatorship that will never end as long as there are such “cases” to be found. What all the testing is really uncovering is hidden traces of a viral presence that become known, not because they are causing actual harm to the public, but because Cuomo is relentlessly hunting for them.

The “Cluster Action Initiative”

64. Moving the goal post of a return to normal yet again, Cuomo now declares a further suspension of constitutional rights until he has eliminated all “clusters” of the virus in what he deems “hot spots,” meaning merely a few positive COVID-19 test results in particular areas involving people who are not even sick.

65. On October 6, based on nothing but a few positive test results purporting to detect the presence of COVID-19 or its remnants in a handful of people in Brooklyn, Queens, Orange, Rockland and Broome Counties, but with no emergent increase in hospitalizations or deaths, Cuomo issued Executive Order 202.68, imposing his newly devised CAI on the entire of State New York. *See* Exhibit 1-1.

66. Under the CAI, **the entire state** is now subject to division into “zones” denominated Red, Orange or Yellow based on the number of positive COVID-19 test results. Depending on the zone classification, what was Phase Four of Cuomo’s New York Forward Plan (NYFP) to “reopen” the state he himself locked down is partially or even totally rolled back—**seven months** after the virus first appeared in New York and **with hospitalizations and deaths at statistical zero**.

67. The restrictions on fundamental rights attendant to each zone are described in Cuomo's October 6 announcement of his new regime:

Red Zone — Cluster Itself

- Houses of Worship: 25 percent capacity, 10 people maximum
- Mass Gatherings: Prohibited
- Businesses: Only essential businesses open
- Dining: Takeout only
- Schools: Closed, remote only

Orange Zone — Warning Zone

- Houses of Worship: 33 percent capacity, 25 people maximum
- Mass Gatherings: 10 people maximum, indoor and outdoor
- Businesses: Closing high-risk non-essential businesses, such as gyms and personal care
- Dining: Outdoor dining only, 4 person maximum per table
- Schools: Closed, remote only

Yellow Zone — Precautionary Zone

- Houses of Worship: 50 percent capacity
- Mass Gatherings: 25 people maximum, indoor and outdoor
- Businesses: Open
- Dining: Indoor and outdoor dining, 4 person maximum per table
- Schools: Open with mandatory weekly testing of students and teachers/staff for in-person settings. The New York State Department of Health will establish a percentage of teachers and students/staff who need to be tested by Friday.

See Exhibit 1-2.

68. EO 202.68 provides that “The enforcement of the zones will go into effect as soon as tomorrow and no later than Friday [October 9]” and that “any individual who encourages, promotes or organizes a non-essential gathering as set forth in Department of Health regulation, shall be liable for a civil penalty not to exceed \$15,000 per day.” Ex. 1-1 at 1, 2.

69. EO 202.68 provides as follows:

The Department of Health shall determine areas in the State that require enhanced public health restrictions based upon cluster-based cases of COVID-

19 **at a level that compromises the State's containment** of the virus. Certain activities shall be restricted and any permitted activities, in all three zones below, shall be conducted in **strict adherence to Department of Health guidance**.

Exhibit 1-1 at 1.

70. EO 202.68 provides no specific epidemiological or other criteria for defining what constitutes a “cluster,” how many positive tests are required for designation as a “Red Zone” an “Orange Zone” or a “Yellow Zone,” or what level of positive tests “compromises the State’s containment of the virus.” Moreover, “containment of the virus” as such is not defined. All of these undefined matters are left entirely to the unfettered discretion and unappealable decisions of the Department of Health, headed by defendant Zucker and answerable only to Cuomo.

71. Supplanting the NYFP, at least in the zones denominated Red, Orange or Yellow, the CAI is an entirely new framework for implementing Executive Order 202.6, issued on March 18, 2020, which established Cuomo’s original arbitrary distinction between “essential” and “non-essential” “businesses and non-profit entities,” and essential and “non-essential” gatherings, relegating churches and synagogues to the category of “non-essential,” where they have remained ever since.

72. The CAI allows a vast array of “essential business” to operate without indoor occupancy restrictions even in its “Red Zone,” including the following examples of places where people congregate indoors in large numbers and for extended periods of time:

- **grocery stores including all food and beverage stores**
- **pharmacies**
- **convenience stores**
- **farmer’s markets**
- gas stations
- **hardware, appliance, and building material stores**
- pet food
- **homeless shelters and congregate care facilities**
- **food banks**

- human services providers whose function includes the direct care of patients in state-licensed or funded voluntary programs; the care, protection, custody and oversight of individuals both in the community and in state-licensed residential facilities; those operating community shelters and **other critical human services agencies providing direct care or support**
- airlines/airports
- public and private transportation infrastructure such as bus, rail, for-hire vehicles, garages
- hotels, and other places of accommodation, including campgrounds.
- senior/elder care
- nursing homes, residential health care facilities, or congregate care facilities
- food processing, manufacturing agents including all foods and beverages
- laundromats and other clothing/fabric cleaning services
- child care services
- animal shelters and animal care including dog walking, animal boarding and pet grooming but only to the extent necessary to ensure animal health
- News media
- banks or lending institution
- higher education research
- child care programs and services
- government owned or leased buildings

*See Exhibit 2-1.*¹⁰

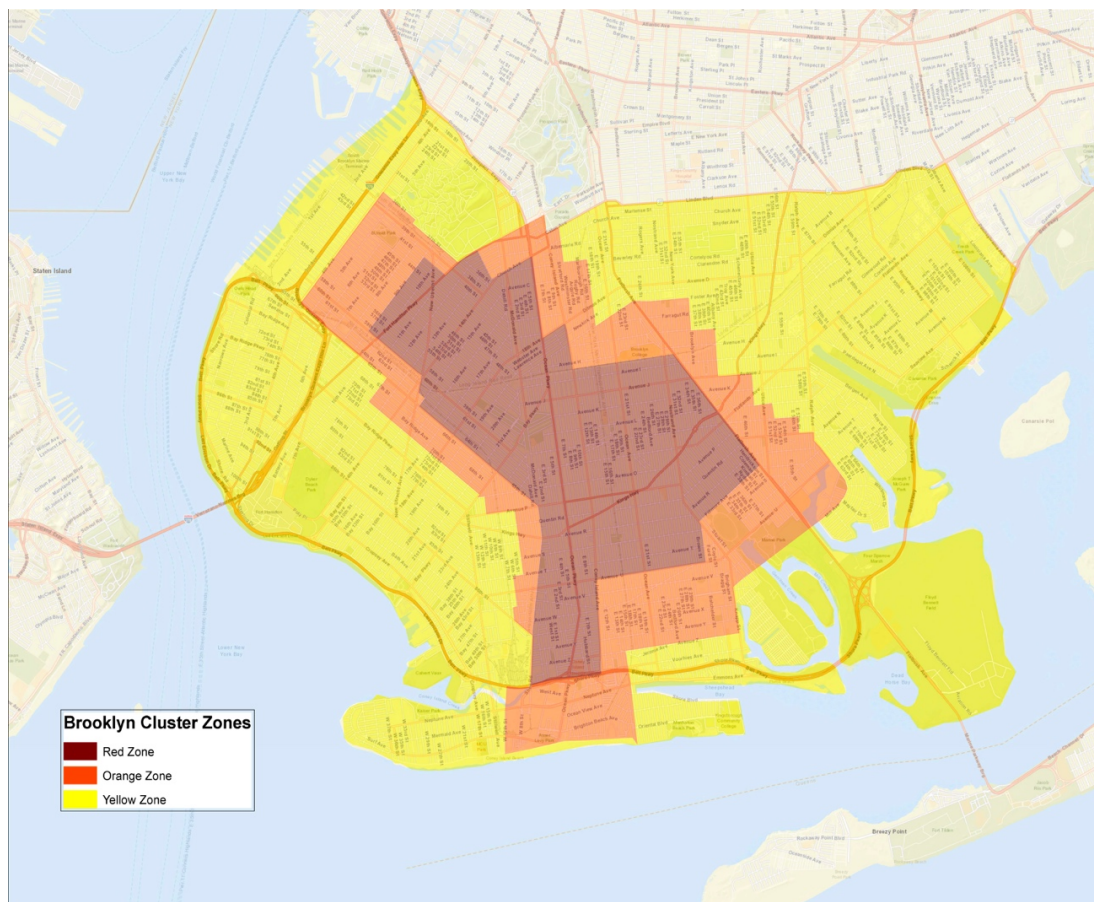
73. Under CAI’s new scheme of arbitrary occupancy restrictions, a church is closed for worship, depending on its zone, but incurs no occupancy restriction whatsoever if the same church premises are used to provide a homeless shelter, a food bank, or other “critical human services... providing direct care or support” of individuals in the community.

74. The zone designations of the CAI have already expanded to include the following counties as of October 7: Brooklyn, Queens, Rockland and Orange. Compliance with the CAI zoned restrictions is now being enforced jointly by defendants Cuomo and de Blasio, as to counties in New York City. *See Exhibit 1-2.*

¹⁰/ The aforementioned Empire State Development Guidance to “Cluster Initiative,” available at <https://esd.ny.gov/ny-cluster-action-initiative-guidance>.)

75. As pleaded above, infant plaintiffs P.L. and G.L., Mayer, Perr and Schonbrun all reside in Brooklyn’s newly created “Red Zone,” where gatherings inside churches and synagogues have been restricted to a maximum of ten persons, religious schools have been closed, and all non-essential outdoor gatherings, including religious gatherings, are forbidden under penalty of a \$15,000 fine for the organizer, promoters or those who merely “encourage” a forbidden outdoor religious gathering.

76. The “Red Zone” in Brooklyn as well as the Orange and Yellow zones, are depicted on the following map, Exhibit 1-3, promulgated with Cuomo’s and De Blasio’s approval and authority:



77. Neither Cuomo nor de Blasio nor the DOH has specified the gross number or the percentage of positive tests that suffices for “Red Zone” designation or, for that matter, designation

as an Orange or Yellow zone. The data Cuomo has published to date, however, demonstrate that the number of positive tests being employed to justify the total suspension of constitutional rights in the Red Zone is statistically trivial.

78. For example, Zip Code 11229, the location of Good Shepherd, the church attended by infant plaintiffs P.L. and G.L and its appurtenant religious school, where they receive a religious education and formation, is largely located in Cuomo's highly restricted Red and Orange zones. This area is supposed to be one of Cuomo's "hotspots." Yet the raw data concerning the number of tests administered and number of positive results reported on September 29, based on the data from September 28, show a mere **twelve positive** tests with only 299 tests performed.¹¹ Ex. 2-11.

79. On the following day, September 30, 2020, the zone was again declared a "hot spot" based on the data from September 29, which show a mere **eleven positive tests** within 11229, with only 286 tests performed. There are over 80,000 residents in this zip code. Ex. 3-3.

80. Considering Brooklyn as a whole, the positivity rate for the two weeks preceding the launching of the CAI were as follows (*see* Exhibits 2-11 and 2-12):

9/25:	1.6%
9/26:	2.0%
9/27:	2.6%
9/28:	1.7%
9/29:	1.8%
9/30:	1.9%
10/1:	1.9%
10/2:	2.3%
10/3:	2.4%
10/4:	2.5%
10/5:	2.1%
10/6:	2.2%

¹¹ <https://www.governor.ny.gov/news/governor-cuomo-meet-orthodox-jewish-community-leaders-address-covid-19-clusters>

81. The positivity rate in Brooklyn has remained around 2 percent as a whole during this time period.

82. When considering the number of “cases” within New York City schools located in the nine top zip codes Cuomo and de Blasio consider “hot spots,” including the 11229 Zip Code, a total of 1,351 tests were administered with **two positive results**. This accounts for a tiny **0.14 infection rate** in schools located in these supposed “hotspots.” *See* Exhibit 3-6 at 2.

83. In sum, there is no epidemiological evidence to support the draconian restrictions of the CAI, especially given the reliability problems with PCR testing, noted above.

**Cuomo Misleads Brooklyn’s Orthodox Jewish Community
by Falsely Promising to Abide by this Court’s Order**

84. On October 6, the day EO 202.68 and the CAI became legally operative, Cuomo, while professing to be a friend of the Orthodox Jewish community in Brooklyn, evinced patent bias against that community and religious gatherings in general: “No large gatherings in synagogues to save a life. You look at where the infection rate is. You look at those clusters. People will die in those clusters. This is about protecting people and saving lives.”

85. **Cuomo presented no evidence whatsoever, and none exists, that “clusters”—a term not defined in the first place—have originated in synagogues or religious schools as opposed to innumerable other places in Brooklyn, including all the “essential businesses” Cuomo allows to operate at full capacity in the same “Red Zone.”**

86. During the same press conference, Cuomo expressly stated that his real object was to restrict religion and not businesses:

[T]he new rules are most impactful on houses of worship, because the virus is not coming from non-essential businesses. That’s not what this is about. It may be spread by non-essential businesses. The virus is not starting in schools. It may be spread by schools. This is about mass gatherings. One of the prime places of

mass gatherings are houses of worship. I understand it's a sensitive topic, but that is the truth. Period. You want to solve the problem? **Acknowledge the problem.**

87. Cuomo presented no evidence, because there is none, that houses of worship or religious schools are “the problem” and not “non-essential businesses.”

88. The day before, during his press briefing on October 5, Exhibit 3-2, Cuomo's anti-religious bias and his targeting of religion, in particular Orthodox Judaism, for “Red Zone” designation, with closure of religious schools and de facto closure of synagogues and churches, was even more apparent:

- “Religious gatherings, especially in these communities. New Rochelle, first hotspot, was an **Orthodox Jewish man** who went to a temple, hundreds of people. And then a wedding. Hundreds of people. **Orthodox Jewish gatherings often are very, very large....**
- “We know religious institutions have been a problem. We know mass gatherings are the super spreader events. We know there have been mass gatherings going on in concert with religious institutions in these communities for weeks. For weeks. I don't mean little violations. You're only supposed to have 50, they had 55. I'm talking about, you're only supposed to have 50 outdoors, they [Orthodox Jews] had 1,000. These are pictures from the past couple of weeks. And these are just emblematic....
- “You've all seen pictures like this for weeks [indicating photos of two large Orthodox Jewish gatherings outdoors]. *See* Exhibit 3-2. What did you think was going to happen? What do you think was going to happen? Religious institutions are mass gatherings and raise the greatest potential.... The one [photo] on the right is more recent than the one on the left. Okay. But they're in the recent past.¹²
- “If we're going to keep **religious institutions** open, it can only be with two conditions. One, the community must agree, whether it's the Jewish community, whether we're talking about Black churches, whether we're talking about Roman Catholic churches, the religious community has to agree to the rules. And they have to agree that they are going to follow the rules and they have to agree that they are going to be a full partner in the enforcement of the rules. That's condition one. **I'm going to meet with members of the ultra-Orthodox community tomorrow.** I want to have

¹²/ In fact, the photo on the left, depicted in Exhibit 3-7 was taken fourteen years ago during the funeral of a revered Rabbi, when a crowd of Orthodox Jews gathered to pay its respects.

that conversation directly myself. **This cannot happen again. If you do not agree to enforce the rules-If you do not agree to enforce the rules, then we'll close the institutions down. I am prepared to do that."** ...

- **"I'm going to be meeting with the Orthodox community tomorrow.** See if they will agree to live and abide by the rules and advocate compliance. If the rabbi advocates compliance, that would be a very positive start. If the communities don't agree with the rules, which is possible, I had some conversations where some religious leaders believe they have herd immunity, which is not true. Some people believe have followed politics and think that masks are ineffective, and this is all a hoax. **That's not true, but if they don't agree, then the state will take action....**
- "Can you put up the picture of the two [Orthodox Jewish] congregations again?...
- **"Meet with the Orthodox community, see if they will agree to live by the rules.** If they do, then we need to put in together a statewide enforcement task force and the local governments have to give me enough personnel to make it work. And that will be statewide including New York City....
- "You're dealing with government saying to religions, you shouldn't have more than X people in your church or your mosque or your temple. That's a politically uncomfortable situation. **I have to say to the Orthodox community tomorrow, if you're not willing to live with these rules, then I'm going to close the synagogue....**
- "I'm going to say to **the Orthodox community** tomorrow, **if you don't agree, then we will have to close down your religious institutions.** I'm going to have to say that to the black ministers."

89. As was the case on October 6, Cuomo presented no evidence, there being none, that Orthodox Jewish or other religious gatherings or any religious school posed a particular threat to public health in terms of undefined "clusters," and no evidence that even a single hospitalization or death in his "Red Zone" had occurred because of religious gatherings as opposed to other gatherings in Brooklyn, including massive demonstrations for George Floyd and Black Lives Matter as noted in plaintiffs' Original Complaint. ECF No., ¶¶ 60-76.

90. The only “evidence” Cuomo presented on October 5 was two photographs of Orthodox Jewish religious gatherings he represented were taken recently, as shown above, when in fact the photograph on the left, as depicted in Exhibit 3-7, was taken fourteen years ago during the funeral of a revered Rabbi, when a crowd of Orthodox Jews gathered outdoors to pay its respects. But while Cuomo objects to this gathering of Orthodox Jews for a religious purpose, he made no objection to far more massive gatherings for a political purpose in connection with the death of George Floyd. *See* comparison photos at Exhibit 3-7.

91. During the October 5 press briefing, Cuomo was confronted with this Court’s injunctive order of June 26 and was asked how he could order the closure of “religious institutions” in view of the injunction. In answer, as supplemented by his secretary, Melissa De Rosa, Cuomo revealed his contempt of this Court’s order and his plan to circumvent it by closing down all “non-essential” businesses along with synagogues and churches in his “Red Zone” based on a few positive COVID-19 test results, with no specification of the number of positive tests required or what constitutes a “cluster”:

Louis: (44:48)

Do you believe you have the legal authority to close down religious institutions [inaudible 00:44:49] **wasn’t there a recent court order barring you from doing that?**

Governor Andrew M. Cuomo: (44:52)

We believe we have the legal authority. **We will assert the legal authority. We have been sued by the religious organizations. Our legal authority was upheld.** I don’t like getting into a litigious situation with the religious community. I have enough questions that I have to answer when I get to the Pearly Gates. **I don’t want to also be questioned as to why I was sued by the Catholic church or the Jewish community for closing temples.** So I have enough issues on my plate. **But yes, we believe we have the legal authority.** Did you want to say something?...

Melissa DeRosa: (46:15):

The lawsuit was over whether or not it was fair that in a religious institution, you were taking a different standard than any other business. And the court at the time went with the businesses. But what the governor's describing as if we're moving into a situation where **we're indiscriminately saying a mass gathering number** in a certain region based on infection rate would be lowered, let's call it 10 people. I'm not saying that's what it's going to be. But just for example sake, 10 people, **then you're not saying a religious institution is being treated differently than any other institution because the law would be applied evenly throughout.** Does that make sense?

92. As the October 5 press briefing reveals, Cuomo evidently also assumed that, in defiance of this Court's injunction, he could continue to maintain a 50-person limit on outdoor gatherings—which he has now totally forbidden in his “Red Zone”—including any religious gatherings in which the original five plaintiffs in this action participate:

Governor Andrew M. Cuomo: [\(16:23\)](#)

Religious gatherings. The City's proposal does not close religious institutions. **We know religious institutions have been a problem. We know mass gatherings are the super spreader events.** We know there have been mass gatherings going on in concert with religious institutions in these communities for weeks. For weeks. I don't mean little violations. You're only supposed to have 50, they had 55. **I'm talking about, you're only supposed to have 50 outdoors, they [the Orthodox Jews] had 1,000.** These are pictures from the past couple of weeks. And these are just emblematic.

93. Cuomo so declared despite the Court's June 26 ruling that Cuomo's and de Blasio's approval of mass gatherings for the political causes they favor required elimination of outdoor gathering limitations altogether.

94. During the same press briefing, Cuomo further revealed that he was abandoning his and de Blasio's original idea of Zip Code-based closures of churches and synagogues along with disfavored “non-essential” businesses due to undefined “clusters” because that would be seen as “arbitrary and capricious,” given that one could avoid the closure by simply walking across the street into a different Zip Code:

And if you don't do it right, it'll just be arbitrary and capricious and then they'll bring you into court. And they'll say, it's just because I happened to be in the zip code and one side of the street, the deli's open on the other side of the street, the delis closed. What sense does that make? All you're doing is bringing the people across the street. **So what is the best area? Once we have that done, then I don't have a problem with closing the [non-] essential businesses.** Then you determine for how long by what data, et cetera...

95. Cuomo's Red, Yellow and Orange zone approach, however, is equally arbitrary and capricious because it is just as easy to leave one of his color-coded zones by crossing the street at its perimeter, as shown on the map set forth above.

96. As *The New York Post* reported, Cuomo's announcement of the CAI on October 6, with its de facto closure synagogues in "Red Zone" of Brooklyn by limiting their capacity to 10 people, betrays a promise he made to the Jewish community only hours before on the same day, during the meeting he said he would have with its representatives during the press conference on October 5.

97. During the October 6 meeting by teleconference, and consistently with this Court's June 26 injunction, Cuomo said any restrictions on synagogue or church worship would not be tighter than 50% of indoor capacity, which was the rule for the "Phase 2 Industries" to which this Court's injunction refers as the comparator:

Gov. Andrew Cuomo told Jewish religious leaders that limiting houses of worship to 50 percent capacity was sufficient to beat back the coronavirus surge — only to announce tighter restrictions just hours later.

The governor spoke around 9 a.m. Tuesday with honchos from Orthodox Jewish communities across New York, seeking their commitment to help contain new outbreaks in Brooklyn and Queens, as well as a handful of upstate communities....

Cuomo told the leaders that a strict limit on the number of people in synagogues and other houses of worship was necessary, but indicated that it would be set at 50 percent.

“We have to follow the 50 percent in the synagogues ... otherwise, I’m telling you, we’re gonna have to wind up going back to close down,” he said, according to the transcript.

“We’re going to enforce the rules but the 50 percent is OK.”

See Exhibit 3-4.

98. Hours later, however, Cuomo announced his CAI regime, which had obviously been in the planning stages at the very moment he made his false promise to the leaders of Brooklyn’s Jewish community. As *The Post* further reports: “The Hasidic Jewish community in Borough Park, Brooklyn did not take kindly to the blindside announcement, launching a fiery and largely-unmasked protest late Tuesday into early Wednesday that saw two photographers beaten — and no NYPD intervention.”

99. The Jewish community publication *Hamodia* reported on the betrayal as follows:

During the call with Jewish leaders Tuesday morning, Cuomo indicated that if community leaders enforced the 50% guideline, shuls would not be closed. He said, “The current rule is no more than 50%. In any indoor gathering 50% of capacity...in a synagogue in any venue, any private venue. It’s 50% of capacity. That’s the current law. We have to follow that law. If we don’t follow that law then the infection rate gets worse. Then we’re gonna have to go back to close down. And nobody wants to do that. But I need your help in getting the rate down, and the rate will come down. If we follow the rules on the mask and the social distancing and the 50%.”

Later that day, the governor announced that houses of worship in coronavirus ‘hotspots’ could allow a maximum of ten people at services, and non-essential businesses in those areas would be closed, in addition to his Monday announcements that schools in hotspots would be closed.

A participant on the call who spoke to *Hamodia* on the condition of anonymity expressed frustration with how it transpired, and stressed that Cuomo never indicated he was prepared to take such extreme measures when it came to shuls. **“The governor stabbed us in the back by announcing this unprecedented lockdown, and he has the audacity to say that he discussed it with Orthodox leaders and they were very receptive. This is just unbelievable. This is something that our community will never forget.** We were looking forward to the opportunity to finally speak directly to the governor, as we were promised....

Instead the governor pretended that he was ready to listen to us...he lied to us. After telling us that he'll limit shul participation to 50% capacity, he placed a limit of 10 people. We all feel used, targeted and enraged."

See Exhibit 3-5.

100. Meanwhile, as shown above, defendants have no evidence that their undefined and numerically unspecified "clusters" of positive COVID-19 test results, falsely presented as "cases" of COVID-19—the "casedemic" that replaces spent pandemic—pose any threat to public health that requires suspension of constitutional rights in the "Red Zone," the "Orange Zone", the "Yellow Zone," or anywhere else in New York State.

101. On the contrary, on October 6, de Blasio admitted that the supposed "surge" in "cases"—meaning, again, a few positive (and unreliable) test results do not involve actual illness—has not been accompanied by any increase in hospitalizations:

Mayor: What we're seeing so far is actually **the number of hospitalizations has not moved much. Although the positivity levels for coronavirus have increased, but still low compared to what they were in the past,** so meaning within – among the folks who were in the hospital – but we certainly have to be ready for a higher level of hospitalizations. I would say right now, if this is our starting point, we're in a much better place than we were obviously in the spring, because whatever is happening now has not moved very quickly in terms of hospitalizations. But yeah, we have to be ready in case of any scenario. So go ahead, Dr. Katz.

See Exhibit 3-6 at 6.

102. De Blasio's admission that there is no hospital emergency in New York City was seconded by his medical advisor, Mitchell Katz, President and CEO of NYC Health + Hospitals:

Thank you, Mr. Mayor. The 11 hospitals of Health + Hospitals **have been a great barometer of the city activity for COVID.** We saw many of the trends ahead of anyone else in the last round. **I'm very pleased that right at the moment, there are only two patients in the 11 hospitals who currently are on a ventilator due to COVID. So, it is very low,** but we nonetheless course have plans for how we would deal with the surge if it were to happen....

Id.

103. As shown by the facts pleaded above, the CAI is a pseudo-medical sham that is also a bureaucrat's dream because it is based on arbitrary, capricious and publicly undisclosed standards designed to perpetuate a mass suppression of constitutional rights seven months into a "lockdown" that is manifestly no longer justified as the State's own data, noted above, show conclusively.

**THE PARTICULAR IMPACT OF THE
CHALLENGED RESTRICTIONS ON PLAINTIFFS**

Plaintiffs Soos and Stamos

104. As of the date of this Amended Complaint, original plaintiffs Soos and Stamos, who preside over Catholic churches and minister to their flocks the North Country, *see* incorporated ¶¶ 77-102 of the original Complaint, are not yet subject to the CAI with its Red, Orange and Yellow zones or the terms or EO 20-2.68, including its penalties.

105. Given Cuomo's past conduct, however, including his constantly shifting policy goals and arbitrary metrics for prolonging his now seven-months long declaration of emergency and his usurpation of ever-expanding "emergency powers," plaintiffs Soos and Stamos could come within the reach of this latest rights-restricting scheme at any moment, depending on how many COVID-19 tests are performed and how many are positive, and whether the DOH, empowered by Cuomo, declares the North County counties in which they minister have reached "a level that compromises the State's containment of the virus"—whatever that may mean from one day to the next in the hidden recesses of Cuomo's health bureaucracy. *See* Exhibit 1-1 at 1.

106. Accordingly, plaintiffs Soos and Stamos join the "Red Zone" plaintiffs in seeking a TRO and permanent and final injunctive relief.

Infant Plaintiffs P.L and G.L.

107. Newly added infant-Plaintiffs P.L. and G.L. are sincere practitioners of Catholicism. Accordingly, infant plaintiffs G.L. and P.L worship at Good Shepherd Catholic Church in Brooklyn and are students at Good Shepherd Catholic Academy (“Good Shepherd”).

108. Both the church and its school are in the “Red Zone” in which all schools must be closed by October 9 under EO 202.68 and the church must be limited to only ten people inside during worship.

109. Good Shepherd school is a fully recognized educational institute that meets all requirements under the New York State Department of Education. At Good Shepherd, Infant-Plaintiff P.C.L is in second grade and exercises his constitutional right to a religious education.

110. At Good Shepherd, infant-plaintiff G.L. is in first grade and exercises his constitutional right to a religious education and formation, including daily religious instruction and also practices the Catholic faith daily in that school setting. G.L. is studying the Catholic faith in preparation for receiving the Holy Sacrament of First Communion next school year.

111. Infant-plaintiff G.L. has a speech and language disability and was in the process of receiving speech therapy and occupational therapy at Good Shepherd. Due to Good Shepherd’s forced closure by Cuomo and de. Blasio, G.A.L is unable to receive adequate speech therapy services, occupational therapy services and a regimented classroom setting required for him to thrive and address his disability.

112. At Good Shepherd, in addition to receiving a religious formation in keeping with his constitutional rights, infant plaintiff P.L. also receives specific daily religious instruction of the Catholic faith and practices the Catholic faith daily in the school setting.

113. In particular, infant plaintiff P.L. is studying to receive the Holy Sacrament of First Communion this school year, currently scheduled for May 2021. The Holy Sacrament of First Holy Communion is of utmost importance to the Catholic faith. It is the time when a child is considered having the age of reason and understanding of their faith, so that the child is able to accept the Sacrament of the Eucharist, which represents the body and blood of Jesus Christ. By receiving the Eucharist, the child is initiated into the Eucharistic community, which means the child now has the honor and privilege of celebrating the sacrifice of Jesus Christ for spiritual benefit unto salvation.

114. By order of defendants de Blasio and Cuomo, all schools in New York City remained closed throughout the remainder of the 2019-2020 school year, following Cuomo's original "disaster emergency" declaration in March 2020.

115. On July 13, 2020, Governor Cuomo stated during a press-conference that schools would be allowed to reopen in regions that are Phase IV of NYFP. On July 20, 2020, New York City entered Phase IV.¹³

116. On August 7, 2020, via a tele-conference, Cuomo permitted the opening of schools in New York State, stating "by our infection rates, all school districts can open." Cuomo went on to say "every school district has submitted plans to the Department of Health and State Education Department...Department of Health has the plans. Department of Health can disapprove plans if they're not responsible from a health point of view." Cuomo stated that effectively all schools in the state could open if their re-opening plans were approved by the DOH.¹⁴

¹³ (<https://www.governor.ny.gov/news/governor-cuomo-announces-new-york-city-cleared-global-health-experts-enter-phase-four-reopening>)

¹⁴ See <https://www.rev.com/blog/transcripts/ny-gov-andrew-cuomo-conference-call-transcript-august-7-opening-schools>

117. In early August of 2020, Good Shepherd submitted its plan for re-opening to the New York State Department of Health, which was subsequently approved.

118. On September 9, 2020, Good Shepherd re-opened with a total population of approximately 350, inclusive of staff and of students, who range from nursery school through eighth grade.¹⁵ In accordance with safety protocols, this population was present on a rotating-basis, so as to keep the onsite population limited for precautionary purposes.

119. From September 9, 2020 to October 5, 2020, approximately a month, Good Shepherd operated with all protocols in place and in accordance with the plan approved by the DOH. Good Shepherd's protocols far exceeded both the requirements under the executive orders and the recommendations set forth by CDC.

120. From September 9, 2020 to October 5, 2020 Good Shepherd operated with **zero** positive Covid-19 cases.¹⁶

121. On Monday, September 29, 2020, however, the Zip Code 11229 was designated by Cuomo a COVID-19 "hotspot" for having a total of **twelve** positive test results on the day prior, with only 299 tests having been administered. The 11229 Zip Code has a population of approximately 80,000 people, and the testing sample size was too small to be statistically representative.¹⁷ Yet in this 80,000- person postal zone, **twelve** positive test results were deemed a "hotspot".¹⁸

¹⁵See <https://schoolcovidreportcard.health.ny.gov/#/schoolData;schBedsCodeId=332200126049;dsBedsCodeId=undefined;schoolType=Private%20School;redirectToHome=true>).

¹⁶ See <https://schoolcovidreportcard.health.ny.gov/#/schoolData;schBedsCodeId=332200126049;dsBedsCodeId=undefined;schoolType=Private%20School;redirectToHome=true>

¹⁷See <https://www.unitedstateszipcodes.org/11229/>)

¹⁸See <https://www.governor.ny.gov/news/governor-cuomo-meet-orthodox-jewish-community-leaders-address-covid-19-clusters>

122. One day later, on Tuesday, September 30, Zip Code 11229 was again labelled a “hotspot” based on the numbers from the day before. On that day, a mere **eleven** tests were positive out of a total of 286 tests performed the day prior in this over 80,000-person community.

123. The raw numbers justifying the “hotspot” designation were never released again after September 30, 2020, when a mere **eleven positive cases** among 80,000 persons were deemed a “hot spot.” Defendants are apparently hiding this data as it is plainly too scanty to justify the onerous restrictions imposed by the CAI and EO 202.68.

124. On October 6, 2020, under the guise of narrowing the Zip Code “hot spots,” during the aforesaid press-conference on that date Governor Cuomo expanded the zones to cover a large portion of Brooklyn, and virtually all of South Brooklyn, including the vast majority of the 11229 postal zones. The zones were no longer designated by Zip Code but were instead divided into the above-noted Red, Orange and Yellow zones of the CAI.

125. Under EO 202.68, in what is now considered a “Red Zone,” all schools, including Good Shepherd, have been ordered to close **after they had already been open for month with no actual health crisis having occurred**, nor are they permitted to reopen even if the Red Zone becomes an Orange zone, as shown above.

126. While Good Shepherd remains closed with no specific reopening plan in place, **both Mayor DeBlasio and Governor Cuomo have admitted that the schools are not the cause for any supposed “surge” in COVID “cases—**meaning a few positive (but unreliable) tests of people who are not even sick. As Mayor DeBlasio admitted on October 4, 2020: “I want to emphasize, we have seen **very little coronavirus activity in our schools.** We have a situation room that’s been monitoring constantly. **This is not because we have seen a number of specific**

problems in our schools, our public schools, we have not. This is out of abundance of caution.”¹⁹

127. Further, during a press conference on October 6, 2020, de Blasio revealed that “just the last few days we’ve gotten **1,351 tests results from the 35 schools in those nine top ZIP codes and only two positive tests** among the 1,351 results we’ve gotten so far.”²⁰

128. The forced closure of Good Shepherd, based on trivial number of positive COVID-19 tests, has deprived infant-plaintiffs P.L. and G.L of their constitutional rights to worship and to a religious education and formation.

129. The limitation of indoor worship to merely ten persons has also deprived infant plaintiffs P.L. and G.L of their constitutional rights to free exercise of religion, freedom of speech and freedom of assembly because that severe capacity limitation guarantees that they will be excluded from any number of indoor services, with even outdoor services being prohibited under EO 202.68, and from their religious schools.

Plaintiffs Mayerfeld, Perr, Schonbrun and Avigdor

130. For the reasons set forth above, EO 202.68 places plaintiffs Mayerfeld, Perr and Schonbrun in exactly the same situation they were in concerning indoor worship before this Court granted injunctive relief on June 26: with their synagogues limited to only ten persons, only the requisite *minyan* can attend services, with families and everyone else excluded as pleaded in ¶¶ 103-115 of the original complaint, which have been incorporated herein by reference.

¹⁹ See <https://www1.nyc.gov/office-of-the-mayor/news/694-20/transcript-mayor-de-blasio-holds-media-availability> (emphasis added).

²⁰ (See <https://www1.nyc.gov/office-of-the-mayor/news/698-20/transcript-mayor-de-blasio-holds-media-availability>)

131. E.O. 202.68, however, creates an even worse situation than existed before this Court lifted all outdoor gathering restrictions with its June 26th injunction. Now, **no outdoor religious gathering of any size** is permitted in the “Red Zone,” not even the ten persons permitted outdoors under the executive orders as challenged in the original Complaint. *See* original Complaint, ¶¶ 103-121; Exhibit 1-1. And the penalty for violating this outrageous restriction is \$15,000,000 for organizing, promoting or even **encouraging** an outdoor religious gathering.

132. Newly added plaintiff Avigdor, as President of Congregation Ahavas Dovid, also located in the Red Zone, suffers the same rights deprivations as Mayer, Perr and Schonbrun, as well as being deprived of any operation of the synagogue over which he and its Rabbi preside. Plaintiff Avigdor’s religious duties include assembling the *minyan* and arranging for services and the Bible readings, including those now underway during Sukkot, as described below, which cannot be limited to a mere ten men. EO 202.68 and the CAI have rendered the operation of his synagogue untenable.

133. Even if the “Red Zone” eventually becomes defendants’ new “Orange Zone,” “houses of worship” are still limited to no more than 33% of capacity or 25 people, whichever is less. This is true even though numerous types of non-essential Phase 2 businesses are allowed to open without such limitations, as shown above, as long as they are not “high-risk” businesses such as gyms and salons. *See* Exhibits 1-1 (EO 202.68 at 2) and 2-1. **Moreover, as driving or use of mass transit is prohibited to Orthodox Jews on the Sabbath, journeys outside the zones to other synagogues are not possible.**

134. This Court’s June 26 injunctive order preliminary enjoined defendants from imposing gathering-size limits on the original plaintiffs any more restrictive than those imposed on NYFP Phase 2 Industries. *See* Order, ECF No. 35 at 35 (“For the reasons explained above,

appropriate injunctive relief here is a restraint on defendants from enforcement of any indoor gathering limitation against plaintiff greater than imposed for Phase 2 industries.”)

135. Because many Phase 2 non-essential businesses are not subject to the 33% or 25-person rule in the Orange Zone under EO 202.68, defendants are apparently in contempt of court to the extent they intend to impose such a restriction plaintiffs Schonbrun, Perr, and Mayerfeld (whenever they attend a synagogue in the Orange Zone or if the Red Zone changes to an Orange Zone).

136. Further, to the extent defendants deem any of Plaintiffs’ *outdoor* worship activities to be “non-essential” gatherings—prohibited in the Red Zone; limited to 10 people in the Orange Zone; and limited to 25 people in the Yellow Zone—they are in contempt of this Court’s order that defendants be restrained from “enforcement of any limitation for outdoor gatherings against plaintiffs,” (ECF No. 35 at 35), given that *essential* outdoor gatherings still remain unrestricted. (EO 202.68 at 2.)

137. In Defendants’ new “Red Zone,” “houses of worship are limited to no more than 25% of capacity or 10 people, whichever is less, even though, as already shown, EO 202.68 plainly exempts “essential gatherings” and allows all manner of “essential businesses” even if they involve large groups of people, in close proximity, for extended periods of time, such as food-processing plants, warehouses, homeless shelters, and more. See Ex. 2-____.

138. But this Court’s June 26th opinion plainly recognized that even “Phase 2 industries involve the congregation of people for a length of time,” and Defendants thus had to satisfy strict scrutiny for treating plaintiffs differently (i.e., to not allow them to worship in churches and synagogues at 50% of capacity, which was the going occupancy rate for Phase 2 industries). (ECF No. 35 at 30.)

139. However, many **essential** businesses, too, “involve the congregation of people for a length of time,” and their exemption under EO 202.68 and the accompanying Guidance triggers the same constitutional harm that existed prior to this Court’s June 26th Order. Therefore, Defendants appear to be in contempt of court by restricting Plaintiffs’ indoor worship to a 10-people maximum in the Red Zone while allowing offices, retail stores not inside of shopping malls, and other similarly situated businesses to operate with no such limitation.

140. Plaintiffs Mayerfeld, Perr, Schonbrun and Avigdor are all imminently threatened by the EO 202.68’s limitation of indoor capacity in synagogues to a maximum of ten persons, the bare minimum for any Jewish worship service. **In particular, they seek a temporary restraining order allowing access to the synagogues by 6 p.m. on October 9, which marks the onset of Shemini Atzeret.**

141. The Jewish high holy days of Sukkot (or Sukkos) began this year On Friday evening October 2nd and ends on Sunday night October 11. The holiday commemorates the wondering of the Israelites in the wilderness and the protection provided by G-d to them at that time. The first two days of and last two days of the holiday are days when there are various restrictions in place similar but not identical to the Sabbath. So, for instance, observant Jews cannot use telephones or computers on those days although they may carry items outside, provided it is not the Sabbath day as well.

142. The Intermediate days between the first two days and last two days are known as Chol Hamoed. Most activities, including going to work are permitted on these days. The intermediate days fall out this year from Monday, October 5th through Friday October 9th.

143. All of the days of this festival are considered joyous and are normally a time of family gathering and festive meals. Special prayers are recited in the synagogue. There are two

unique observances central to the holiday. One is the Sukkah or hut. This is a temporary structure with a roof made from branches leaves or other wood or vegetation like bamboo or something similar. Most households will build their own Sukkah in their driveway or backyard or the like. People who are unable to build a Sukkah may rely on a communal Sukkah built by most synagogues. The Sukkah is used for eating and sleeping and is adorned with decorations.

144. In addition to the aspect of remembering the protection of God and the huts in the wilderness, there are many deep spiritual associations with this observance. For instance, the notion of going out from a permanent dwelling and living in a temporary dwelling is meant to remind us that this life is temporary and that one ought to focus one's efforts on perfecting oneself spiritually for the next world. which is eternal.

145. Many synagogues will hold celebratory observances in their Sukkah during the intermediate days to commemorate the drawing of the water for the water libations in the ancient Temple which were brought during this holiday. These are accompanied by singing and live music in large groups. All these aspects of Sukkah are apparently forbidden in the "Red Zone" as a "non-essential" outdoor gathering under penalty of a \$15,000, as provided in EO 202.68.

146. Another major aspect of religious observance is the four species: The Lulav-Date Palm, Etrog-Citron, Haddasim-Myrtle and Aravot-Willow. A blessing is recited over these each day except for the Sabbath. In the Synagogue each participant carries his own set of the four species and circles the Bima or central table where the Torah is read. One member of the *minyan* holds a Torah scroll at the Bima while everyone circles one time while saying the Hoshana (Hosanna) prayers. There is a different set of prayers each day. This cannot be done in a synagogue limited to ten persons indoors as this is an activity involving more than just the *minyan*. All the men and

boys must participate, not just ten men. And it must be done in a synagogue around the Bima, the central table.

147. The 7th day of the festival which this year falls out on Friday October 9th is known as Hoshana Rabbah or Great Hoshana. On Hoshana Rabbah all the scrolls are removed from the Ark and 7 circuits are made. It is a solemn prayer service with the Cantor donning a white garment called a Kittel as on Yom Kippur. It is actually the culmination of Yom Kippur and is considered a final chance to pray for a good year and forgiveness following Rosh Hashana and Yom Kippur. Every man and boy must participate, not just a *minyan* of ten.

148. The Eighth day of the Holiday (Saturday October 10) is named Shemini Atzeret. Special prayers are said and in addition to the readings from the Torah the Book of Kohelet (Ecclesiastes) is read. The Yizkor prayers for the departed are recited in the Synagogue. Perhaps most important, the Prayer for Geshem is said. Geshem is translated literally as Rain, but in addition to rain it has the deeper meaning of general sustenance and livelihood. This prayer is also a solemn prayer and part of the High Holyday theme with the Cantor once again donning the Kite for this prayer **while the whole congregation, not just ten men**, attends and participates, this time including all the women.

149. The ninth day of the Festival is known as Simchat Torah (literally translated as Happiness of the Torah). This is perhaps the most joyous day of the year in a synagogue when Orthodox Jews celebrate the completion of the reading of the Torah, the Five Books of Moses. They make seven circuits with the Torah Scrolls around the Bima, in large groups comprised of all the men and boys, with women also involved by their presence.

150. Simchat Torah is a particularly important religious educational observance for children. Jewish adults have deeply fond memories of accompanying their fathers to Shul with the

other celebrants. Such memories keep the spark of faith alive in Jewish hearts. All of this is prohibited by EO 202.68 and the CAI, which allows only ten men in the synagogue and forbids any larger gathering for this purpose, including the children. Even outside, such a gathering would be totally forbidden—not even one person—under threat of a \$15,000 fine.

151. Afterwards, the congregants read the last portion of the Torah from one Scroll. Then they read the first Chapter of Genesis from another Scroll and finally a third section dealing with the holiday from a third scroll. These things, which involve all the men, with the boys and women also attending, cannot be done if only ten people are permitted in the synagogue and everyone else in the believing community is excluded, and when even attempting to do this outdoors is met with a \$15,000 fine.

152. It is also customary on this day **for all men, not just ten of them**, to get a chance to make a blessing on the Scroll, and so the last portion is repeatedly read until all the men in the congregation have that chance. Even boys who are under the age of Bar Mitzvah are accorded this opportunity—the only day of the year when this is done. This vitally important act of worship cannot be limited to ten adult males while the rest of the community excluded from this opportunity for a great blessing.

153. For these reasons, with EO 202.68 and the CAI, defendants are directly attacking the religious observance of Hoshana Rabbah, Shemini Atzeret and Simchat Torah, three of the most important holidays celebrated in the synagogue after Rosh Hashana and Yom Kippur. These prayers, readings and services cannot be said by an individual. They require, first of all, a *minyan*. But limiting the congregation to the minyan while excluding the whole community—men, wives, children, relatives and others—from these crucial celebrations, **and forbidding them entirely outdoors**, is a radical deprivation of the free exercise of the Jewish religion.

154. Immediate injunctive relief is needed to ensure the uninterrupted completion of these vitally important religious observances as they conclude over this weekend.

155. EO 202.68 and the CAI also interfere in the religious education and formation of the children of plaintiffs Mayerfeld, Perr and Schonbrun. This is shown by the following facts.

156. Plaintiff Mayerfeld has a son, age 17, who attends a Jewish school in the “Red Zone,” which is ordered closed effective October 9 under Order 202.68. Plaintiff Mayerfeld has two other children whose Jewish school has been closed even though it is not in the Red Zone for fear of retaliation by Cuomo and di Blasio, as plaintiff Mayerfeld has been notified by school authorities.

157. Plaintiff Perr has three school age children, two of whom, boys aged 13 and 11, attend Jewish schools in the Red Zone, now ordered closed.

158. Plaintiff Schonbrun has three school age children, an 11-year-old boy and two girls, ages 6 and 7, who attend Jewish schools in the Red Zone, now ordered closed.

159. All of the aforesaid Jewish schools are scheduled to open on Monday, October 12, after the Jewish holidays described above, but now face forced closure if they dare to open contrary to Cuomo’s and di Blasio’s will. Immediate injunctive relief is necessary to ensure the continuation of the Jewish education of plaintiffs’ children.

160. Finally, plaintiff Mayer’s personal knowledge of the neighborhoods encompassed by the “Red Zone” in which he resides, worships and educates his children shows that the “Red Zone” and the “Orange Zone” are anti-religious gerrymanders targeting Brooklyn’s Orthodox Jewish Community. This is shown by the following facts.

161. Looking at the Red Zone from the perspective of someone who lives there, it is obvious that meticulous attention was given to precisely carve out the areas that are heavily populated by Orthodox Jews.

162. First of all, East 7th 8th and 9th streets between 18th Avenue, Cortelyou Road, Ocean Parkway and Coney Island avenue in that same Kensington Neighborhood are in the Orange Zone where many Orthodox Jews are living on those streets. There are two Large Yeshivas in that Orange area, one on East 9th Between Ditmas and Cortelyou and One on Ditmas and Ocean Parkway. Most and perhaps all of the students and teachers in those two schools come from the Red Zone.

163. The Red Zone on the North Eastern side abruptly cuts off and turns orange at Coney Island Avenue and Avenue H. The Orange area North of Avenue H is a predominantly Muslim Area, which is known as little Pakistan, and that area is not heavily populated by Orthodox Jews.

164. In the South Eastern Corner where plaintiff Mayerfeld lives, the Marine Park Neighborhood the Red Zone abruptly ends on Fillmore Avenue and Marine Park and is cut in half between Red and Orange. It is an ethnically mixed neighborhood, but the bulk of the Orthodox Jewish inhabitants live in the Red Zone north of the Fillmore Avenue line.

165. The rest of the Boundaries of the Red Zone also closely follow heavily populated Orthodox Jewish Areas. For example, the area between McDonald Avenue and Coney Island Avenue and Quentib Road and Avenue Y, is heavily populated by Sephardic Orthodox Jews of primarily Syrian decent but also Moroccan and Iranian.

166. The remainder of the Red Zone is Borough Park and Midwood, populated mostly by Chassidic Jews in Borough Park and non-Chassidic Jews in Midwood together with Sephardic

Jews. The dominant Chassidic sect in Borough Park is the Bobovs, but many other sects are also present including a large Satmer community.

COUNT I

**Violation of the First and Fourteenth Amendments to the U.S. Constitution
(Free Exercise of Religion)
42 U.S.C. § 1983**

167. Plaintiffs re-allege and incorporate by reference the factual allegations in ¶¶ 1-166

168. Plaintiffs' sincerely held religious beliefs compel them to preside over or participate in religious gatherings and religious education in keeping with the teachings and requirements of their respective religions.

169. The Free Exercise Clause of the First Amendment to the U.S. Constitution protects plaintiffs' religious activities.

170. The challenged limits on gatherings under defendant Cuomo's executive orders as alleged in the incorporated original Complaint and this Amended Complaint, including 202.68 and the CAI, substantially burden plaintiffs' free exercise of religion by forbidding them to preside over or participate in any religious gathering in their respective houses of worship, religious schools or elsewhere in the State of New York, save under arbitrarily oppressive conditions that strictly limit the size of their congregations.

171. The challenged regulations are impermissibly underinclusive because they are riddled with exceptions while purporting to be facially neutral, fail to prohibit secular activity that endangers the purported state interest in "public health" equally or to a greater degree than the prohibited religious conduct, and burden religious conduct while not affecting substantial categories of conduct that are not religiously motivated.

172. The challenged regulations are therefore not a neutral policy or law of general applicability and cannot be sustained unless narrowly tailored to serve a compelling state interest of the highest order.

173. The challenged regulations are not rationally related to a compelling state interest, nor are they the least restrictive means of accomplishing the purported compelling state interest of reducing the rate of community spread of COVID-19.

174. The undefined terms “non-essential gatherings” and the terms involved in EO 202.68, have no rational relation to the goal of “containing” COVID-19, which can be accomplished even more readily in a church, synagogue or religious school, where people can sit apart in pews or desks, than in the mass demonstrations defendants condone or in retail or office environments rife with direct interpersonal contacts and contact with common surfaces touched by innumerable other people.

175. The challenged regulations irrationally undermine the purported state interest by favoring numerous forms of secular activity that pose a greater risk of viral transmission than the prohibited religious gatherings and religious schools.

176. Defendants have less restrictive means of achieving any legitimate interest served by the challenged regulations, those being the same conditions on which they allow retail and non-retail businesses to operate: i.e., “social distancing” and sanitization.

177. As the pleaded facts demonstrate, the challenged regulations irrationally, invidiously, and without any legitimate, much less compelling, state purpose discriminate against religious activities in favor of secular and commercial activities, including mass demonstrations that violate the same regulations.

178. Both facially and as applied to plaintiffs, the challenged regulations violate the Free Exercise Clause of the First Amendment as made applicable to the States by the Fourteenth Amendment.

179. In the absence of declaratory and injunctive relief, plaintiffs will be irreparably harmed.

180. Plaintiffs have no adequate remedy at law for the violation of their constitutional rights.

COUNT II

Violation of the First and Fourteenth Amendments to the U.S. Constitution (Violation of Freedom of Speech, Assembly and Expressive Association) 42 U.S.C. § 1983

181. Plaintiffs re-allege and incorporate by reference the allegations in ¶¶ 1-178.

182. The First Amendment protects plaintiffs' right to peaceably assemble together with the members of their congregations or in religious schools.

183. Plaintiffs' religious assemblies are intertwined with speech and expressive association, meaning the right to associate with others of like mind for a protected purpose.

184. Because the undefined term "non-essential gatherings" employed in the challenged regulations has no rational relationship to the goal of "limiting the spread" or "containing" COVID-19 which can be practiced more easily, or no less easily, in a church, synagogue or religious school than in the retail and office environments and mass demonstrations the defendants favor, the challenged regulations operate solely to discriminate arbitrarily against groups of people based on their social, political or religious purposes rather than any alleged lack of "social distancing."

185. Defendants have less restrictive means of regulating gatherings for the stated purpose of “reducing the rate of community spread of COVID-19.”

186. The challenged regulations do not serve any compelling or even significant government interest and are not narrowly tailored to achieve any legitimate state purpose.

187. The challenged regulations impermissibly infringe freedom of speech, assembly and expressive association without serving any compelling or even significant government interest.

188. In the absence of declaratory and injunctive relief, plaintiffs will be irreparably harmed.

189. Plaintiffs have no adequate remedy at law for the violation of their constitutional rights.

COUNT III

Violation of the Fourteenth Amendment (Equal Protection – Substantive Due Process) 42 U.S.C. § 1983

190. Plaintiffs re-allege and incorporate by reference the allegations contained in ¶¶ 1-187.

191. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution guarantees equal protection of the laws, which requires that the State not treat the “suspect class” of religion differently from the class of similarly situated people or pass laws that burden First Amendment rights.

192. The challenged regulations treat the class or subclass of people who exercise freedom of religion by gathering with others for that purpose, including plaintiffs, differently from

the similarly situated class of people who gather with others for secular purposes, including the mass demonstrations defendants have exempted from their regulatory regime.

193. Moreover, the class of those who gather for religious purposes in churches, chapels, synagogues or religious schools is plainly less subject to the risk of infection or transmission than those engaged in mass demonstrations, commercial transactions involving crowded offices, large crowds every day of the week, physical exchanges, and common surfaces touched by potentially millions of people, which makes the suspect classification targeted by the challenged regulations even more irrational and invidious.

194. The challenged regulations cannot survive the strict scrutiny required of suspect classifications under the substantive due process component of the Equal Protection Clause as they are far from neutral and generally applicable and are not narrowly tailored to serve a compelling state interest.

195. The challenged regulations, both facially and as applied, also violate plaintiffs' fundamental rights to freedom of speech, assembly and expressive association as alleged above.

196. Even if the challenged regulations did not involve a suspect classification or violate fundamental rights, their severe restriction of religious gatherings, while permitting numerous secular and commercial gatherings unrestricted as to size, including the mass demonstrations of which defendants approve, is not even rationally related to a legitimate state interest and thus cannot survive even rational basis analysis under the Equal Protection Clause.

197. Alternatively, the challenged regulations cannot survive heightened scrutiny under the "hybrid-rights" theory the United States Supreme Court has recognized for purposes of Equal Protection analysis when, as here, multiple rights are violated by a purportedly neutral law.

198. The challenged regulations thus violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, including its substantive component.

199. In the absence of declaratory and injunctive relief, plaintiffs will be irreparably harmed.

200. Plaintiffs have no adequate remedy at law for the violation of their constitutional rights.

COUNT IV

Ultra Vires State Action in Violation of Federal and State Constitutional Rights

201. Plaintiffs re-allege and incorporate by reference the allegations contained in ¶¶ 1-198.

202. Defendant Cuomo relies on New York State Executive Law § 29-a as the basis for the challenged regulations. Said statute provides in pertinent part as follows:

1. *Subject to the state constitution, the federal constitution and federal statutes and regulations, the governor may by executive order temporarily suspend specific provisions of any statute, local law, ordinance, or orders, rules or regulations, or parts thereof, of any agency during a state disaster emergency if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the disaster....*

a. no suspension shall be made for a period in excess of thirty days, provided, however, that upon reconsideration of all of the relevant facts and circumstances, the governor may extend the suspension for additional periods not to exceed thirty days each;

b. no suspension shall be made which does not safeguard the health and welfare of the public and *which is not reasonably necessary* to the disaster effort;...

e. any such suspension order shall provide *for the minimum deviation from the requirements of the statute, local law, ordinance, order, rule or regulation* suspended consistent with the disaster action deemed necessary....

203. Executive Law § 29-a provides no authority for the plethora of detailed positive edicts Cuomo has promulgated by executive fiat, regulating virtually every aspect of the lives of some 8 million people in the State of New York, including plaintiffs’ exercise of First Amendment rights as pleaded above.

204. Before March 3 of 2020, § 29-a conferred no authority Cuomo to issue free-standing, positive directives regulating every detail of the public lives of New Yorkers on the pretext of an outbreak of disease. On that date, however, days before Cuomo declared his never-ending emergency, he signed into law an *ad hoc* amendment to § 29-a that expanded its definition of “disaster emergency” to include “disease outbreak” and authorized him not only to **suspend or modify** laws and regulations temporarily but also to issue “**any directive** during a state disaster emergency...” Cf. NY LEGIS 23 (2020), 2020 Sess. Law News of N.Y. Ch. 23 (S. 7919) (emphasis added)

205. This sweepingly overbroad grant of authority to issue “**any directive**” is still supposed to be limited not only by “the state constitution, the federal constitution and federal statutes and regulations” but also as follows:

...no suspension **or directive** shall be made which is not in the interest of the health or welfare of the public and which is not **reasonably necessary** to aid the disaster effort; ...

... any such suspension order **or directive** shall provide for **the minimum deviation** from the requirements of the statute, local law, ordinance, order, rule or regulation suspended consistent with the goals of the disaster action deemed necessary; and

N.Y. Exec. Law § 29-a (2), (b) and (e).

206. As facts pleaded demonstrate, Cuomo and the other state-level defendants acting under his authority have cast aside these restraints over the past five months not only by suspending or modifying various laws but also by issuing separate “directives” that violate the constitutional

rights to free exercise of religion, freedom of assembly and expressive association, freedom of speech, freedom of movement and freedom from interference with personal autonomy and bodily integrity.

207. The challenged regulations are *ultra vires* the very statute on which defendant Cuomo relies in that Cuomo has legislated rather than confining himself to the limited process of temporarily suspending certain laws, orders, rules or regulations by executive order and making directives of “**minimum deviation**” from existing laws and regulations.

208. Alternatively, the state legislature has abdicated its legislative authority to Cuomo in violation of the New York Constitution’s requirement of a separation of powers, “implied by the separate grants of power to each of the coordinate branches of government.” *Clark v. Cuomo*, 66 N.Y.2d 185, 189; N.Y. Const., art. III, § 1; art. IV, § 1.

209. The New York State Constitution provides for a complete separation of powers among the three “co-ordinate and co[-]equal branches” of government: the executive, the legislative, and the judicial. N.Y. Const., art. III, sec. 1; art. IV, sec. 1; and art. VI.

210. Article III, Section 1 of the New York State Constitution provides: “The legislative power of this state shall be vested in the senate and assembly.” N.Y. Const., art. III, sec. 1.

211. Nowhere in the New York State Constitution is the Chief Executive, defendant Cuomo, given or delegated any legislative authority. Rather, “The [G]overnor shall have power to convene the legislature, or the senate only, on extraordinary occasions. At extraordinary sessions convened pursuant to the provisions of this section no subject shall be acted upon, except such as the [G]overnor may recommend for consideration.” N.Y. Const., art. IV, sec. 3.

212. The Governor’s exercise of emergency power during the COVID-19 outbreak required that defendant Cuomo convene the legislature on an extraordinary basis in order to take

whatever legislative measures were deemed reasonably necessary according to the separation of powers. Defendant Cuomo has never convened the legislature.

213. In any case, the results violate not only federal but also state constitutional protections, including the New York Constitution's guarantee of freedom of worship (Art. 1, § 5), freedom of speech and assembly (Art. 1, §§ 8 and 9) and equal protection of the laws (Art. 1, § 11).

214. Defendant Cuomo's *ultra vires* acts, as enforced by him and the other named defendants should be declared void and unenforceable, as they constitute state action in violation of all the constitutional rights the challenged regulations infringe, as pleaded above.

215. In the absence of declaratory and injunctive relief voiding and enjoining defendants' *ultra vires* acts, plaintiffs will be irreparably harmed.

216. Plaintiffs have no adequate remedy at law for the violation of their constitutional rights.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully pray that this Court grant the following relief:

- A. A temporary restraining order, followed by a preliminary and final injunction restraining defendants, and all those acting at their direction or in concert with them, from enforcing any closure of, or gathering limits on, plaintiffs' houses of worship and religious schools, either indoor or outdoor, including the limits on "non-essential gatherings" and occupancy of houses of worship and religious schools in effect at the time of this Court's injunction of June 26, 2020 and now in effect with EO 202.68 and the CAI;

- B. In the alternative, compelling defendants to apply to plaintiffs' religious gatherings, houses of worship and religious schools no greater limits than they had placed on essential retail businesses and mass demonstrations as of the date of this Court's preliminary injunction of June 26, 2020;
- C. A declaratory judgment that (1) the challenged executive orders and related "guidance," both those in effect at the time of this Court's June 26 preliminary injunction, and those now in effect under EO 202.68 and the CAI, are unconstitutional, both individually and taken together, both facially and as applied to plaintiffs; and (2) that the challenged executive orders and related "guidance" are *ultra vires* Executive Law § 29-a, void and unconstitutional, both facially and as applied to plaintiffs under both the federal and state constitutions;
- D. An award of costs of this litigation, including reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988.
- E. Such other and further relief as this Court deems just and proper.

Dated: October 9, 2020

Respectfully submitted,



CHRISTOPHER A. FERRARA, ESQ.
(Bar No. 51198)
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Telephone: (718) 357-1040
cferrara@thomasmoresociety.org
Special Counsel to the Thomas More Society
Counsel for Plaintiffs

VERIFICATION

I, **REV. STEVEN SOOS**, am over the age of 18 and am a Plaintiff in this action. The allegations that pertain to me in this VERIFIED AMENDED COMPLAINT are true and correct, based upon my personal knowledge (unless otherwise indicated), and if called upon to testify as to their truthfulness, I would and could do so competently. I declare under penalties of perjury, under the laws of the United States, that the foregoing statements are true and correct.

Executed on October 9, 2020


REV. STEVEN SOOS

VERIFICATION

I, **REV. NICHOLAS STAMOS**, am over the age of 18 and am a Plaintiff in this action. The allegations that pertain to me in this VERIFIED AMENDED COMPLAINT are true and correct, based upon my personal knowledge (unless otherwise indicated), and if called upon to testify as to their truthfulness, I would and could do so competently. I declare under penalties of perjury, under the laws of the United States, that the foregoing statements are true and correct. Executed on October 9, 2020.


REV. NICHOLAS STAMOS

VERIFICATION

I, **JEANETTE LIGRESTI**, am over the age of 18 and am a parent and guardian of infant plaintiffs and minor children, P.L. and G.L. The allegations that pertain to infant plaintiffs in this VERIFIED AMENDED COMPLAINT are true and correct, based upon my personal knowledge (unless otherwise indicated), and if called upon to testify as to their truthfulness, I would and could do so competently. I declare under penalties of perjury, under the laws of the United States, that the foregoing statements are true and correct.

Executed on October 9, 2020.



JEANETTE LIGRESTI

VERIFICATION

I, **DANIEL SCHONBRUN**, am over the age of 18 and am a Plaintiff in this action. The allegations that pertain to me in this VERIFIED AMENDED COMPLAINT are true and correct, based upon my personal knowledge (unless otherwise indicated), and if called upon to testify as to their truthfulness, I would and could do so competently. I declare under penalties of perjury, under the laws of the United States, that the foregoing statements are true and correct.

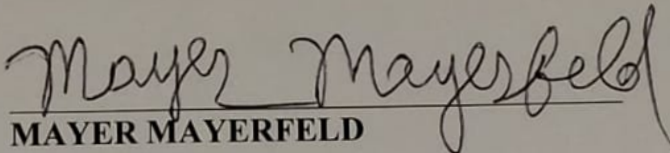
Executed on October 9, 2020.


DANIEL SCHONBRUN

VERIFICATION

I, **MAYER MAYERFELD**, am over the age of 18 and am a Plaintiff in this action. The allegations that pertain to me in this VERIFIED AMENDED COMPLAINT are true and correct, based upon my personal knowledge (unless otherwise indicated), and if called upon to testify as to their truthfulness, I would and could do so competently. I declare under penalties of perjury, under the laws of the United States, that the foregoing statements are true and correct.

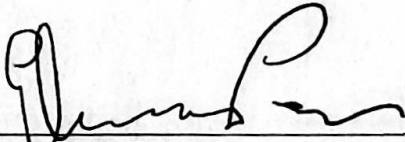
Executed on October 9, 2020.


MAYER MAYERFELD

VERIFICATION

I, **ELCHANAN PERR**, am over the age of 18 and am a Plaintiff in this action. The allegations that pertain to me in this VERIFIED AMENDED COMPLAINT are true and correct, based upon my personal knowledge (unless otherwise indicated), and if called upon to testify as to their truthfulness, I would and could do so competently. I declare under penalties of perjury, under the laws of the United States, that the foregoing statements are true and correct.

Executed on October 9, 2020.



ELCHANAN PERR

VERIFICATION

I, **MORTON AVIGDOR**, am over the age of 18 and am a Plaintiff. The allegations that pertain to me in this VERIFIED COMPLAINT are true and correct, based upon my personal knowledge (unless otherwise indicated), and if called upon to testify as to their truthfulness, I would and could do so competently. I declare under penalties of perjury, under the laws of the United States, that the foregoing statements are true and correct.

Executed on October 9, 2020.



MORTON AVIGDOR



State of New York

Executive Chamber

No. 202.68

EXECUTIVE ORDER

Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency

WHEREAS, on March 7, 2020, I issued Executive Order Number 202, declaring a State disaster emergency for the entire State of New York; and

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in New York State and are expected to continue;

NOW THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist or aid in coping with such disaster, or to provide any directive necessary to respond to the disaster, do hereby continue the suspensions and modifications of law, and any directives not superseded by a subsequent directive contained in Executive Orders 202.31, 202.41, 202.42, 202.43, 202.51, 202.52, 202.56, as contained in Executive Order 202.63, and Executive Orders 202.61 and 202.62 for another thirty days through November 5, 2020, and I hereby temporarily suspend or modify the following from the date of this Executive Order through November 5, 2020:

- Sections 12 and 206 of the Public Health Law, to the extent necessary to, notwithstanding any other provision of this Executive Order, provide that any individual who encourages, promotes or organizes a non-essential gathering as set forth in Department of Health regulation, shall be liable for a civil penalty not to exceed \$15,000 per day; and
- Sections 12-a and 206(4) of the Public Health Law, to the extent necessary to authorize, at the direction of the Commissioner of Health or the Commissioner's representative, any local government official to assess, and the local government to retain, a civil penalty for violations of Executive Orders issued pursuant to Section 29-A of the Executive Law, or any regulations of the Department of Health, that impose requirements pertaining to maintaining social distance and wearing of face coverings, for the duration of this disaster emergency, and to conduct any hearing related to such penalties. Such penalties, if assessed on an individual basis, shall not exceed \$1,000 per violation, except as otherwise provided herein.

IN ADDITION, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to issue any directive during a disaster emergency necessary to cope with the disaster, I do hereby issue the following directives through November 5, 2020:

- The Department of Health shall determine areas in the State that require enhanced public health restrictions based upon cluster-based cases of COVID-19 at a level that compromises the State's containment of the virus. Certain activities shall be restricted and any permitted activities, in all three zones below, shall be conducted in strict adherence to Department of Health guidance.

- Based upon the severity of the cluster activity, the Department of Health shall adopt in the most severe, or "red zones," the following mitigation measures:
 - Non-essential gatherings of any size shall be postponed or cancelled; all non-essential businesses, as determined by the Empire State Development Corporation based upon published guidance, shall reduce in-person workforce by 100%; houses of worship shall be subject to a capacity limit of 25% of maximum occupancy or 10 people, whichever is fewer; any restaurant or tavern shall cease serving patrons food or beverage on-premises and may be open for takeout or delivery only; and the local Department of Health shall direct closure of all schools for in-person instruction, except as otherwise provided in Executive Order.
- In moderate severity warning areas or "orange zones" the following mitigation measures:
 - Non-essential gatherings shall be limited to 10 people; certain non-essential businesses, for which there is a higher risk associated with the transmission of the COVID-19 virus, including gyms, fitness centers or classes, barbers, hair salons, spas, tattoo or piercing parlors, nail technicians and nail salons, cosmetologists, estheticians, the provision of laser hair removal and electrolysis, and all other personal care services shall reduce in-person workforce by 100%; houses of worship shall be subject to a maximum capacity limit of the lesser of 33% of maximum occupancy or 25 people, whichever is fewer; any restaurant or tavern shall cease serving patrons food or beverage inside on-premises but may provide outdoor service, and may be open for takeout or delivery, provided however, any one seated group or party shall not exceed 4 people; and the local Department of Health shall direct closure of all schools for in-person instruction, except as otherwise provided in Executive Order.
- In precautionary or "yellow zones," the following mitigation measures:
 - Non-essential gatherings shall be limited to no more than 25 people; houses of worship shall be subject to a capacity limit of 50% of its maximum occupancy and shall adhere to Department of Health guidance; any restaurant or tavern must limit any one seated group or party size to 4 people; and the Department of Health shall issue guidance by October 9, 2020 regarding mandatory testing of students and school personnel, and schools shall adhere to such guidance.
- The above directive shall be effective immediately, and at such time as notice is provided to such affected areas, may be enforced and shall be enforced no later than Friday, October 9, 2020, as determined by the county in which the red zones, orange zones, and yellow zones are located.



GIVEN under my hand and the Privy Seal of the

State in the City of Albany this sixth

day of October in the year two

thousand twenty.

BY THE GOVERNOR

Secretary to the Governor



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EXHIBIT 1-2

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ANDREW M. CUOMO

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OCTOBER 6, 2020 | Albany, NY

Governor Cuomo Announces New Cluster Action Initiative

CORONAVIRUS

HEALTH

PUBLIC SAFETY

SHARE   

Initiative Developed in Consultation with Leading National Public Health Experts—Dr. Noam Ross of EcoHealth Alliance, Dr. Michael Osterholm of the University of Minnesota and Former CDC Director Dr. Tom Frieden

New Initiative Maps Clusters by Density of Cases to Address COVID Hot Spots in Brooklyn, Queens, and Broome, Orange and Rockland Counties

Fines for Sponsors of Mass Gatherings Increased to \$15,000

New Rules and Restrictions in Effect for Minimum of 14 Days

Governor Andrew M. Cuomo today announced a new cluster action initiative to address COVID-19 hot spots that have cropped up in Brooklyn, Queens, and Broome, Orange and Rockland Counties. Working with the top public health experts, New York State developed a science-based approach to attack these clusters and stop any further spread of the virus, including new rules and restrictions directly targeted to areas with the highest concentration of COVID cases and the surrounding communities. The new rules will be in effect for a minimum of 14 days.

The plan was developed in consultation with national public health experts including Dr. Noam Ross of EcoHealth Alliance, Dr. Michael Osterholm of the University of Minnesota and former CDC Director Dr. Tom Frieden.



AUDIO

PHOTOS

"A cluster is just that - it's a cluster of cases, a high density of cases, and it seeps and grows from that cluster almost in concentric circles. Drop a pebble into the pond, the pebble goes in, then there's one ring, two rings, three rings, and the rings continue across the pond. When you see the cluster, you have to stop it at that point," **Governor Cuomo said.** "Our strategy is to crush the cluster and stop the spread, and we're announcing a special initiative to do just that. Step one, you take the most dramatic action within the cluster itself where you have the highest density of cases. Understanding that the people in that cluster interface with the surrounding communities, take additional action in the communities surrounding the cluster. Then as a precautionary measure, take action in the communities that are outlying that area."

The initiative is composed of three steps:

1. Take dramatic action within the cluster.
2. Take action in the area surrounding the cluster to stop the spread.
3. Take precautionary action in the outlying communities.

The initiative will currently apply to clusters in the following areas:

- Broome County (One Area, Yellow) - Click [Here](#) for Map
- Brooklyn (One Area, Red, Orange and Yellow) - Click [Here](#) for Map
- Orange County (One Area, Red and Yellow) - Click [Here](#) for Map
- Queens (Two Areas, Red, Orange and Yellow) - Click [Here](#) and [Here](#) for Maps
- Rockland County (One Area, Red and Yellow) - Click [Here](#) for Map

The initiative will divide clusters and the areas around them into three categories with successively higher restrictions within each one:

Red Zone — Cluster Itself

- Houses of Worship: 25 percent capacity, 10 people maximum
- Mass Gatherings: Prohibited
- Businesses: Only essential businesses open
- Dining: Takeout only
- Schools: Closed, remote only

Orange Zone — Warning Zone

- Houses of Worship: 33 percent capacity, 25 people maximum
- Mass Gatherings: 10 people maximum, indoor and outdoor
- Businesses: Closing high-risk non-essential businesses, such as gyms and personal care
- Dining: Outdoor dining only, 4 person maximum per table
- Schools: Closed, remote only

Yellow Zone — Precautionary Zone

- Houses of Worship: 50 percent capacity
- Mass Gatherings: 25 people maximum, indoor and outdoor
- Businesses: Open
- Dining: Indoor and outdoor dining, 4 person maximum per table
- Schools: Open with mandatory weekly testing of students and teachers/staff for in-person settings. The New York State Department of Health will establish a percentage of teachers and students/staff who need to be tested by Friday.

The enforcement of the zones will go into effect as soon as tomorrow and no later than Friday.

Governor Cuomo also announced that fines for the sponsors of mass gatherings in violation of state public health rules will be increased to \$15,000.

Contact the Governor's Press Office

 **Contact us by phone:**

Albany: (518) 474 - 8418
New York City: (212) 681 - 4640

 **Contact us by email:**

Press.Office@exec.ny.gov

Governor Andrew M. Cuomo

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New York's Cluster Action Initiative Guidance

FOR GUIDANCE RELATED TO DETERMINING WHETHER A BUSINESS ENTERPRISE IS SUBJECT TO A WORKFORCE REDUCTION UNDER EXECUTIVE ORDER 202.6, RELATED TO NEW YORK'S PAUSE, PLEASE CLICK [HERE](#).

UPDATED: OCTOBER 7, 2020 AT 4:10 PM

This guidance is issued in accordance with New York Governor Andrew M. Cuomo's [Executive Order 202.68](#), which directs the Department of Health to determine areas in the State that require enhanced public health restrictions based upon cluster-based cases of COVID-19 at a level that compromises the State's containment of the virus. **Certain activities shall be restricted and any permitted activities, in the three zones (Red, Orange, Yellow) described below, shall be conducted in strict adherence to Department of Health guidance.**

This guidance is issued by the New York State Department of Economic Development d/b/a Empire State Development (ESD), in consultation with the Department of Health, and applies to each business or entity location individually and is intended to assist businesses in determining whether they are an essential business, if they are located in areas with designated cluster activity (see below for details). With respect to business or entities that operate or provide both essential and non-essential services, supplies or support, only those lines and/or business operations that are necessary to support the essential services, supplies, or support are exempt from the workforce reduction restrictions.

Where permitted to operate within the cluster action initiative, businesses and other entities must continue to follow the relevant industry-specific guidelines provided by Department of Health as available on the *New York Forward* [website](#) for their applicable operations and activities. Further, State and local governments, including municipalities and authorities, are exempt from these essential business reductions, but may be subject to other provisions that restrict non-essential, in-person workforce and other operations under [Executive Order 202](#).

On October 6, 2020, Governor Cuomo [announced](#) a new cluster action initiative to address COVID-19 hotspots that cropped up in various areas of New York. Working with the top public health experts, the State developed a science-based approach to contain these clusters and stop any further spread of the virus, including new rules and restrictions directly targeted to areas with the highest concentration of COVID cases and the surrounding communities. The new rules are in effect for a minimum of 14 days.

The initiative is composed of three steps:

- (1) Reduce in-person activities and interactions within the cluster, similar to *New York on PAUSE*;
- (2) Take action in the area surrounding the cluster to stop the spread; and

The initiative currently applies to clusters in the following areas:

- **Broome County (One Area, Yellow)** - Click [Here](#) for Map
- **Brooklyn (One Area, Red, Orange and Yellow)** - Click [Here](#) for Map
- **Orange County (One Area, Red and Yellow)** - Click [Here](#) for Map
- **Queens (Two Areas, Red, Orange and Yellow)** - Click [Here](#) and [Here](#) for Maps
- **Rockland County (One Area, Red and Yellow)** - Click [Here](#) for Map

Red Zone – Cluster Itself

Activity restrictions include:

- No non-essential gatherings of any size
- Houses of worship are subject to a capacity limit of 25% of maximum occupancy or 10 people, whichever is fewer
- Restaurants and taverns must cease serving patrons food or beverage on-premises and may be open for takeout or delivery only
- Schools must close for in-person instruction, except as otherwise provided in Executive Order.

All non-essential businesses in the red zone, which do not meet the criteria below, shall reduce in-person workforce by 100%.

Orange Zone – Warning Zone

Activity restrictions include:

- Non-essential gatherings shall be limited to 10 people
- Houses of worship are subject to a capacity limit of the lesser of 33% of maximum occupancy or 25 people, whichever is fewer
- Restaurants and taverns must cease serving patrons food or beverage inside on-premises but may provide outdoor service, and may be open for takeout or delivery, provided that any one seated group or party must not exceed 4 people
- Schools must close for in-person instruction, except as otherwise provided in Executive Order.
- Certain non-essential businesses, for which there is a higher risk of transmission of the COVID-19 virus, shall reduce in-person workforce by 100%; such businesses include:
 - Gyms, fitness centers or classes
 - Hair salons and barbershops
 - All other personal care services including but not limited to spas, tattoo or piercing parlors, nail technicians and nail salons, cosmetologists, estheticians, the provision of laser hair removal and electrolysis

Yellow Zone – Precautionary Zone

Activity restrictions include:

- Non-essential gathers are limited to no more than 25 people
- Houses of worship are subject to a capacity limit of 50% of its maximum occupancy and shall adhere to Department of Health guidance

- Restaurants and taverns must limit any one seated group or party size to 4 people EXHIBIT 2-1
- Schools shall adhere to applicable guidance issued by the Department of Health regarding mandatory testing of students and school personnel

For purposes of Executive Order 202.68, essential businesses allowed to remain open in any red zone(s) include:

1. Essential health care operations including

- research and laboratory services
- hospitals
- walk-in-care health clinics and facilities
- veterinary and livestock medical services
- senior/elder care
- medical wholesale and distribution
- home health care workers or aides for the elderly
- doctors and doctors' offices for both emergency and non-emergency appointments
- dentists and dental practices for both emergency and non-emergency appointments
- nursing homes, residential health care facilities, or congregate care facilities
- medical supplies and equipment manufacturers and providers
- licensed mental health providers
- licensed substance abuse treatment providers
- medical billing support personnel
- speech pathologists and speech therapy
- chiropractic services
- acupuncture
- physical therapy
- occupational therapy
- medically necessary massage therapy

2. Essential infrastructure including

- public and private utilities including but not limited to power generation, fuel supply, and transmission
- public water and wastewater
- telecommunications and data centers
- airlines/airports
- commercial shipping vessels/ports and seaports
- public and private transportation infrastructure such as bus, rail, for-hire vehicles, garages
- hotels, and other places of accommodation, including campgrounds.
 - Campgrounds must take precautions to ensure campers maintain appropriate social distancing and adhere to proper cleaning and disinfecting protocols, including but not limited to maintaining six feet of distance between campers, unless wearing an acceptable face covering, excluding persons from the same household who are camping together.

3. Essential manufacturing including

- food processing, manufacturing agents including all foods and beverages
- chemicals
- medical equipment/instruments

- pharmaceuticals
- sanitary products including personal care products regulated by the Food and Drug Administration (FDA)
- telecommunications
- microelectronics/semi-conductor
- food-producing agriculture/farms
- household paper products
- defense industry and the transportation infrastructure
- automobiles
- any parts or components necessary for essential products that are referenced within this guidance

4. Essential retail including

- grocery stores including all food and beverage stores
- pharmacies
- convenience stores
- farmer's markets
- gas stations
- restaurants/bars (but only for take-out/delivery)
- hardware, appliance, and building material stores
- pet food
- telecommunications to service existing customers and accounts
- all other retail may operate for curbside pick-up or delivery only with no customers allowed within the establishment and only one employee physically present to fulfill orders.

5. Essential services including

- 2020 Census operations and activities
- trash and recycling collection, processing, and disposal
- mail and shipping services
- laundromats and other clothing/fabric cleaning services
- building cleaning and maintenance
- child care services
- bicycle repair
- auto repair and maintenance
- automotive sales conducted remotely or electronically, with in-person vehicle showing, return, and delivery by appointment only
- warehouse/distribution and fulfillment
- funeral homes, crematoriums and cemeteries
- storage for essential businesses
- maintenance for the infrastructure of the facility or to maintain or safeguard materials or products therein
- animal shelters and animal care including dog walking, animal boarding and pet grooming but only to the extent necessary to ensure animal health
- food and non-food agriculture
- landscaping, gardening and horticulture
- designing, printing, publishing and signage companies to the extent that they support essential businesses or services
- remote instruction or streaming of classes from public or private schools or health/fitness centers; provided, however, that no in-person congregate classes are permitted

6. News media

7. Certain office-based work, including financial services and research EXHIBIT 2-1

- banks or lending institution
- insurance
- payroll
- accounting
- services related to financial markets, except debt collection
- higher education research
- other office-based work not specified here may operate remotely

8. Providers of basic necessities to economically disadvantaged populations including

- homeless shelters and congregate care facilities
- food banks
- human services providers whose function includes the direct care of patients in state-licensed or funded voluntary programs; the care, protection, custody and oversight of individuals both in the community and in state-licensed residential facilities; those operating community shelters and other critical human services agencies providing direct care or support

9. Construction

- Construction projects may continue, but any work that can be done remotely such as office-based work must proceed remotely, to the extent practicable. Employees/personnel who are not directly involved in in-person work at the business location/construction site are prohibited.

10. Defense

- defense and national security-related operations supporting the U.S. Government or a contractor to the US government

11. Essential services necessary to maintain the safety, sanitation and essential operations of residences or other businesses including

- law enforcement, including corrections and community supervision
- fire prevention and response
- building code enforcement
- security, including security personnel for residential and commercial buildings
- emergency management and response, EMS and 911 dispatch
- building cleaners or janitors
- general and specialized maintenance whether employed by the entity directly or a vendor, including but not limited to heating, ventilation, and air conditioning (HVAC) and pool maintenance
- automotive repair
- cleaning, disinfection, and sanitation services
- occupational safety and health professionals
- residential and commercial moving services

12. Vendors that provide essential services or products, including logistics and technology support, child care and services including but not limited to:

- logistics

- technology support for online services
- child care programs and services
- government owned or leased buildings
- essential government services
- any personnel necessary for online or distance learning or classes delivered via remote means

13. Recreation

- Local government are permitted to determine whether parks and other public spaces, as well as low-risk recreational activities may be open.
 - If open, appropriate social distancing of at least six feet among individuals must be abided, acceptable face coverings must be worn by individuals who are over the age of two and able to medically tolerate such coverings, and frequent cleaning/disinfection measures must be in place for hard surfaces and objects frequently touched by multiple people (e.g., handrails, benches).

14. Other professional services with extensive restrictions

- Lawyers may continue to perform all work necessary for any service so long as it is performed remotely.
 - Any in-person work presence shall be limited to work only in support of essential businesses or services; however, even work in support of an essential business or service should be conducted as remotely as possible.
- Real estate services shall be conducted remotely for all transactions, including but not limited to title searches, appraisals, permitting, inspections, and the recordation, legal, financial and other services necessary to complete a transfer of real property; provided, however, that any services and parts therein may be conducted in-person only to the extent legally necessary and in accordance with appropriate social distancing and cleaning/disinfecting protocols; and nothing within this provision should be construed to allow brokerage and branch offices to remain open to the general public (i.e. not clients).



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The data presented on these pages reflect the most recent information the Health Department has collected about people who have tested positive for COVID-19 in NYC. In March, April and early May, we had discouraged people with mild and moderate symptoms from being tested, so our data from those months primarily represent people with more severe illness.

Unless otherwise noted, all of the below information was collected by the NYC Health Department. The data on these pages will be updated daily. All data are preliminary and subject to change.

- Download case data and technical notes on Github.
- Download archived data files (March 17 to May 17).
- COVID-19 Zone Finder

Cases, Hospitalizations and Deaths

Measure	Number of NYC Residents
Cases	242,902
Hospitalizations	57,626
Confirmed deaths* Deaths following a positive COVID-19 laboratory test	19,231
Probable deaths Cause of death reported as "COVID-19" or equivalent, but no positive laboratory test	4,642
Updated:	October 7, at 1 p.m.

*Due to data collection differences, the City's reported total of confirmed deaths for any given day is usually different than the State's data about NYC deaths. For more information, visit our Github repository.

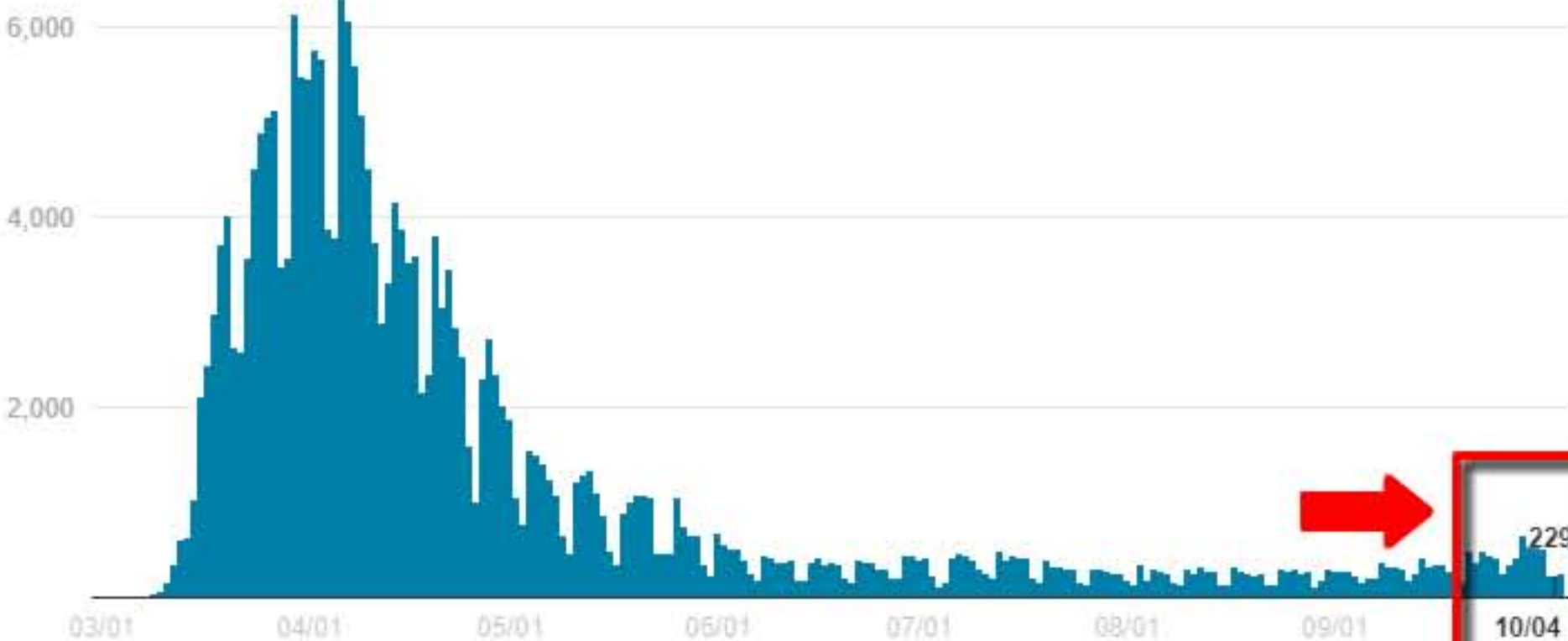
Get the data • Created with Datawrapper

Daily Counts

This chart shows the number of confirmed cases by diagnosis date, hospitalizations by admission date and deaths by date of death from COVID-19 on a daily basis since February 29. Due to delays in reporting, which can take as long as a week, recent data are incomplete.

View: ☐ 7-day average cases ☒ Cases, hospitalizations, deaths

Cases Hospitalizations Deaths



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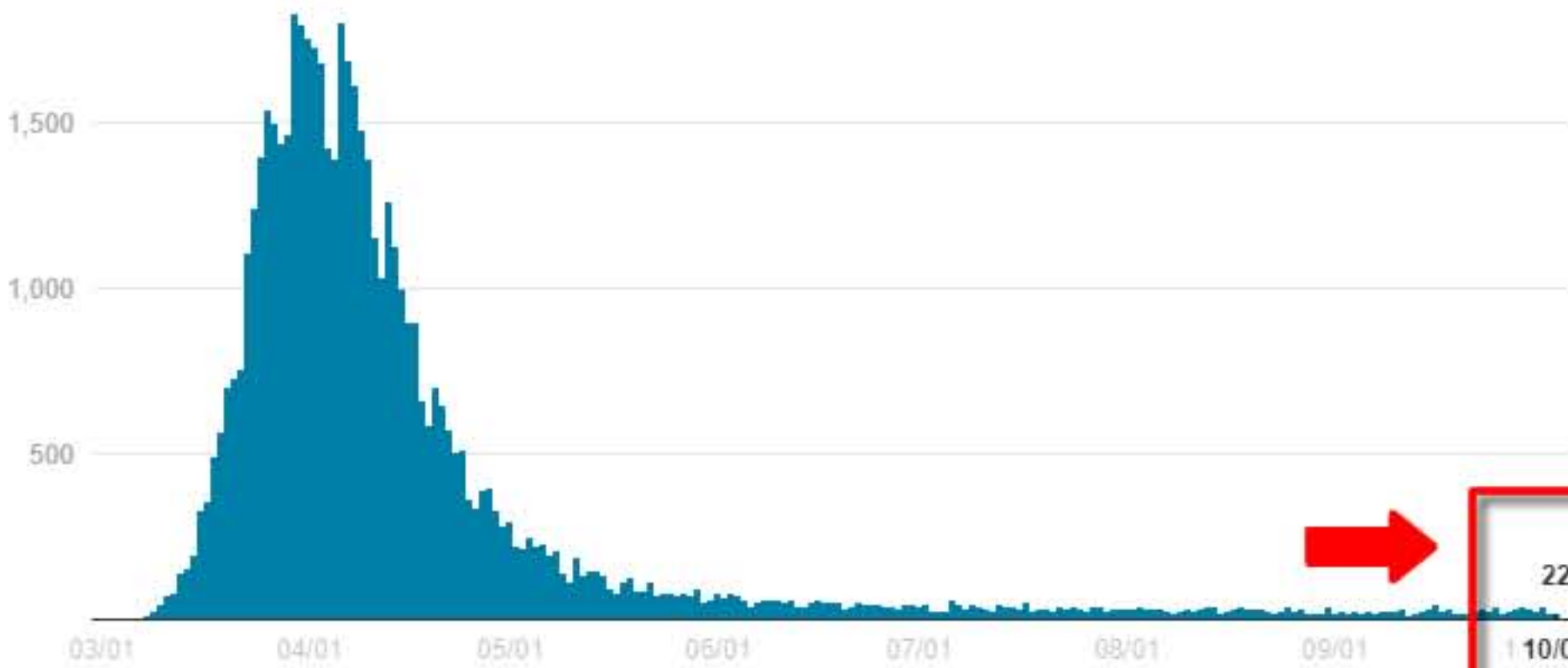
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Cases Hospitalizations Deaths



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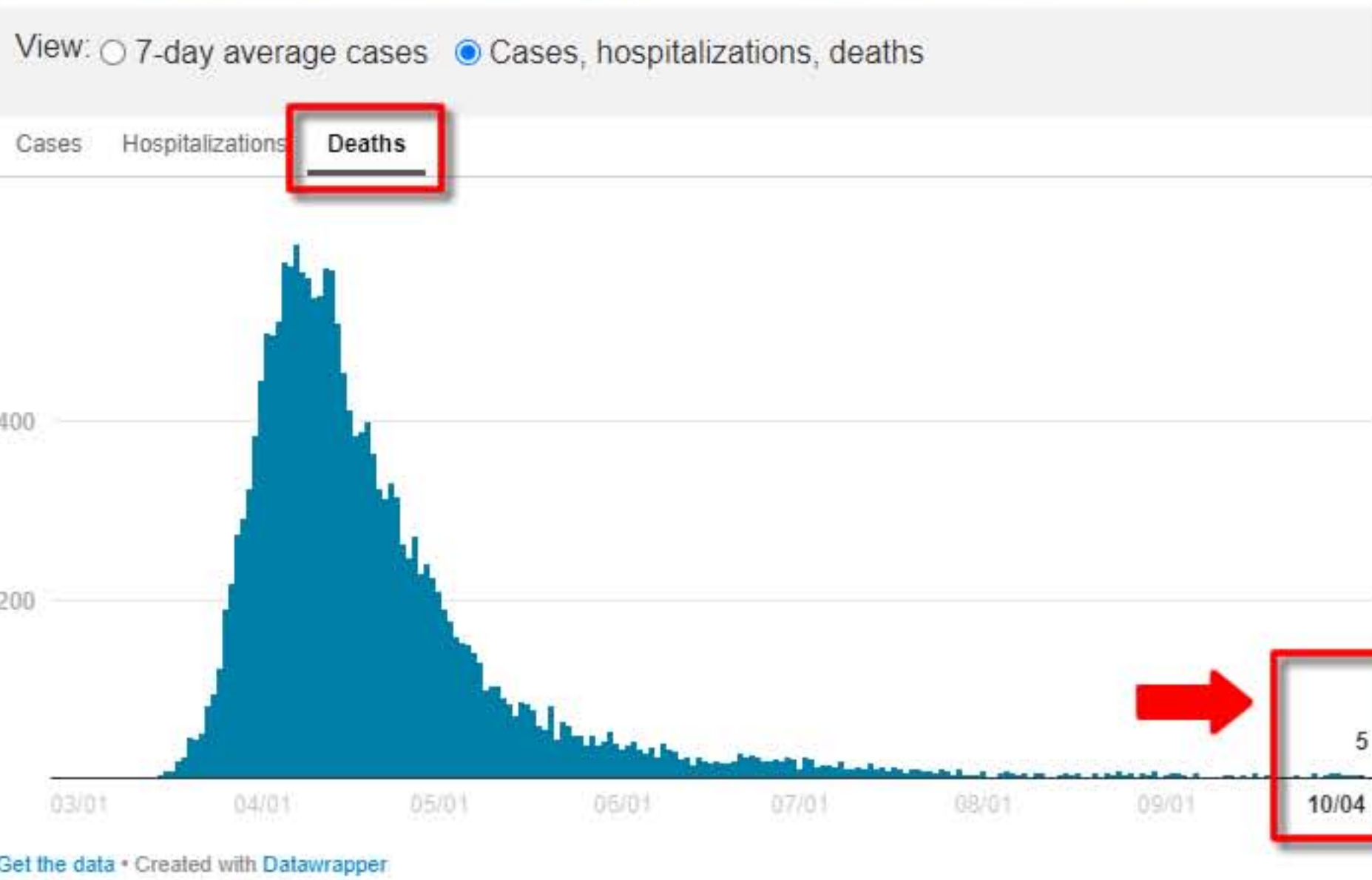
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Get the data • Created with Datawrapper

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Details on Deaths

The different types of reported deaths are as follows:

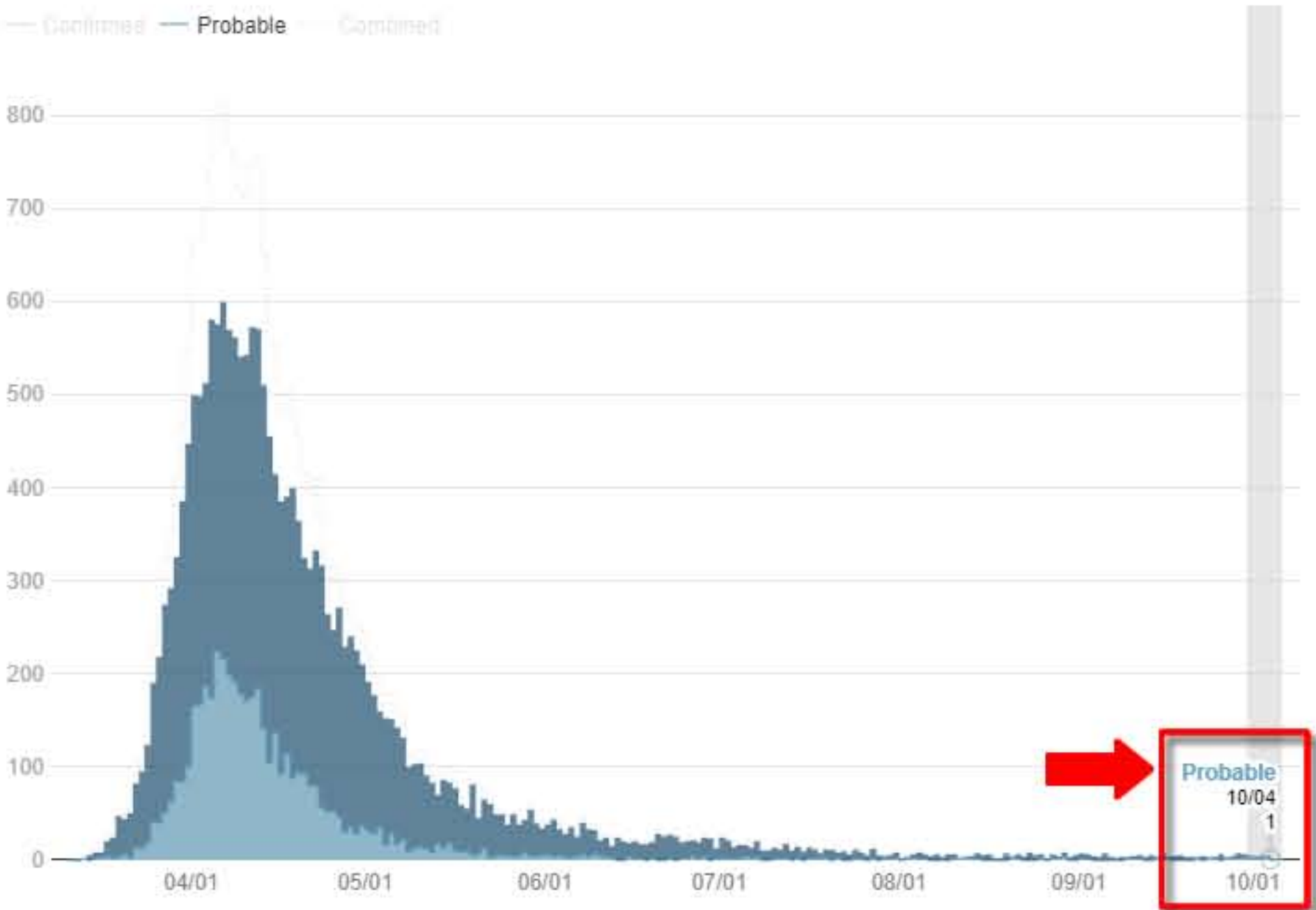
- Confirmed deaths:** People who had laboratory-confirmed COVID-19.
- Probable deaths:** Cause of death reported as COVID-19 or equivalent, but no positive laboratory test.

Due to delays in lab results, some deaths initially reported as probable may be changed to confirmed. Also, demographic data on probable deaths are incomplete, as some records do not include this information yet.

Daily Reported Death Totals

New York City's first confirmed COVID-19 death was reported on March 11. Due to delays in reporting, which can take as long as a week, the most recent data (in the gray shaded area) are incomplete.

Daily number of COVID-19 deaths among NYC residents



Gray area indicates that the most recent data are incomplete.

[Get the data](#) • Created with [Datawrapper](#)

Confirmed and Probable Death Totals

Data on probable deaths that are missing demographic information are classified as "Data Pending".



AGE	CONFIRMED DEATHS	PROBABLE DEATHS	TOTAL DEATHS	% of TOTAL
75+	9406	2504	11910	50%
65-74	4751	981	5732	24%
45-64	4311	999	5310	22%
18-44	747	144	891	4%
0-17	15	3	18	0%
	19230	4631	23861	100%

74%



EXHIBIT 2-6

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- COVID-19 Zone Finder

Cases, Hospitalizations and Deaths

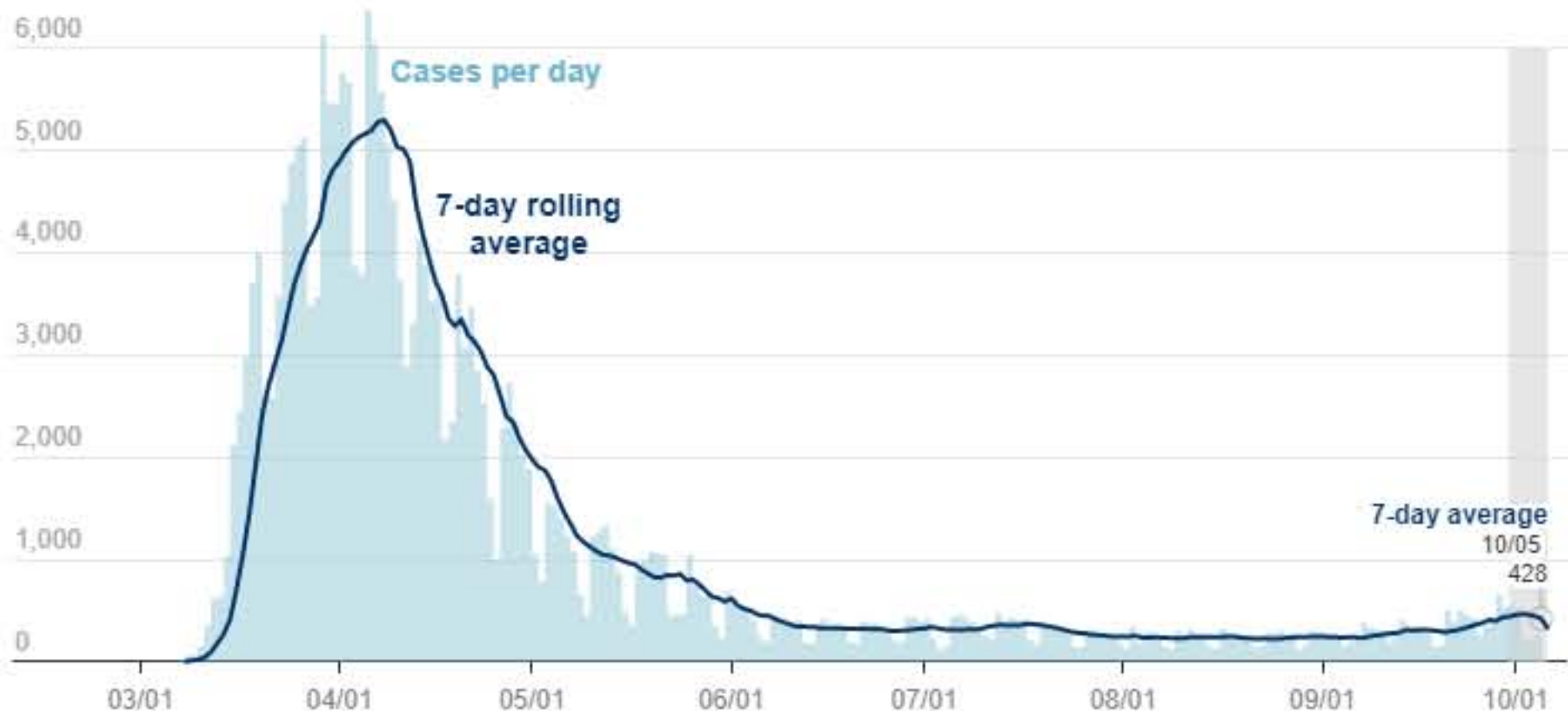
Measure	Number of NYC Residents
Cases	242,902
Hospitalizations	57,626
Confirmed deaths* Deaths following a positive COVID-19 laboratory test	19,231
Probable deaths Cause of death reported as "COVID-19" or equivalent, but no positive laboratory test	4,642
Updated:	October 7, at 1 p.m.

*Due to data collection differences, the City's reported total of confirmed deaths for any given day is usually different than the State's data about NYC deaths. For more information, visit our Github repository.
Get the data • Created with Datawrapper

Daily Counts

This chart shows the number of confirmed cases by diagnosis date, hospitalizations by admission date and deaths by date of death from COVID-19 on a daily basis since February 29. Due to delays in reporting, which can take as long as a week, recent data are incomplete.

View: 7-day average cases Cases, hospitalizations, deaths



Seven-day rolling average is the average of the day and the six days before. Gray bar indicates data from most recent days are incomplete.
Get the data • Created with Datawrapper



Services News Government Local

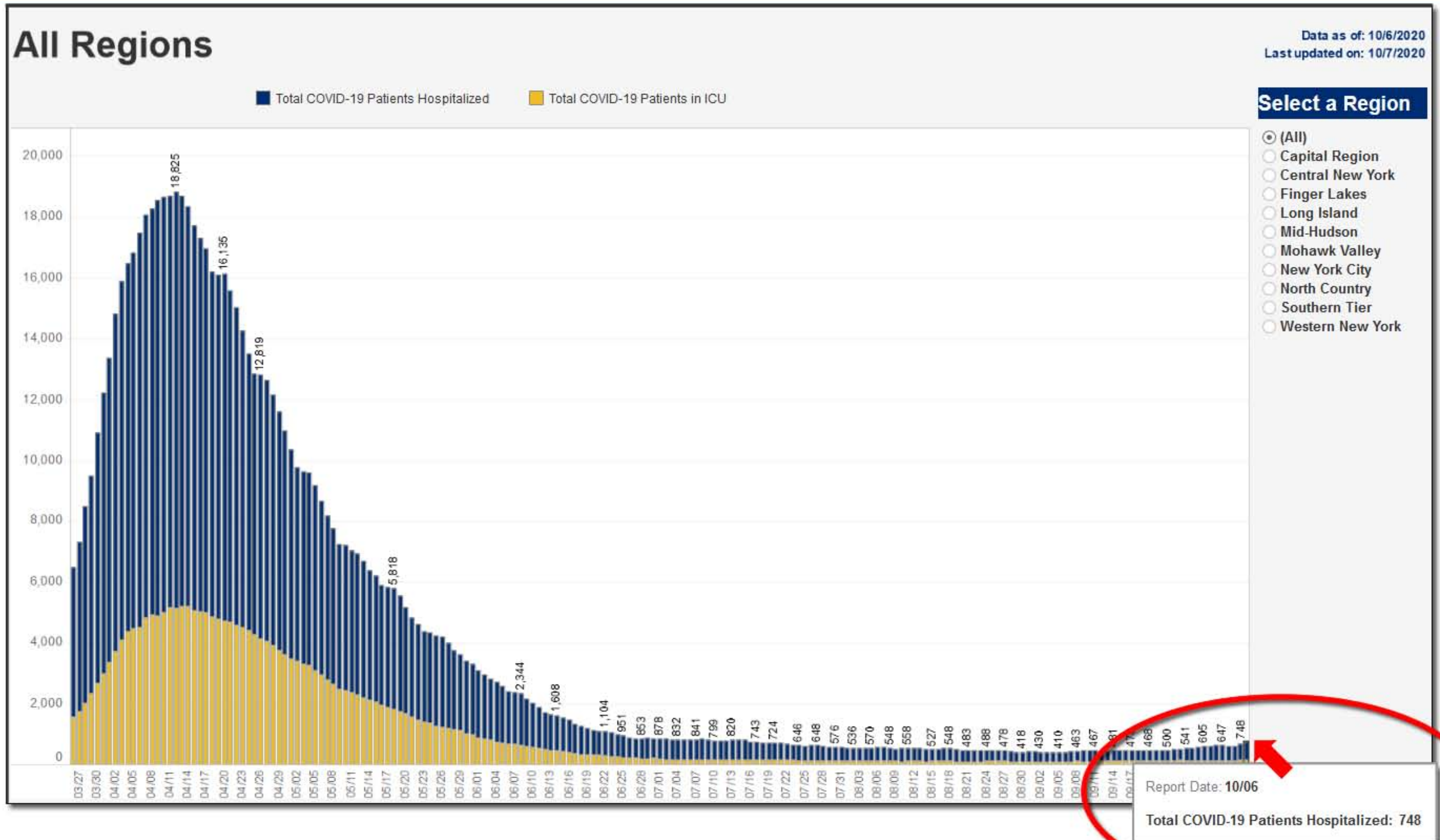
EXHIBIT 2-7

Search

New York Forward

Reopening Guidelines Advisory Boards Testing Protect Yourself Know Your Rights

Daily Hospitalization Summary by Region



TESTING HUB

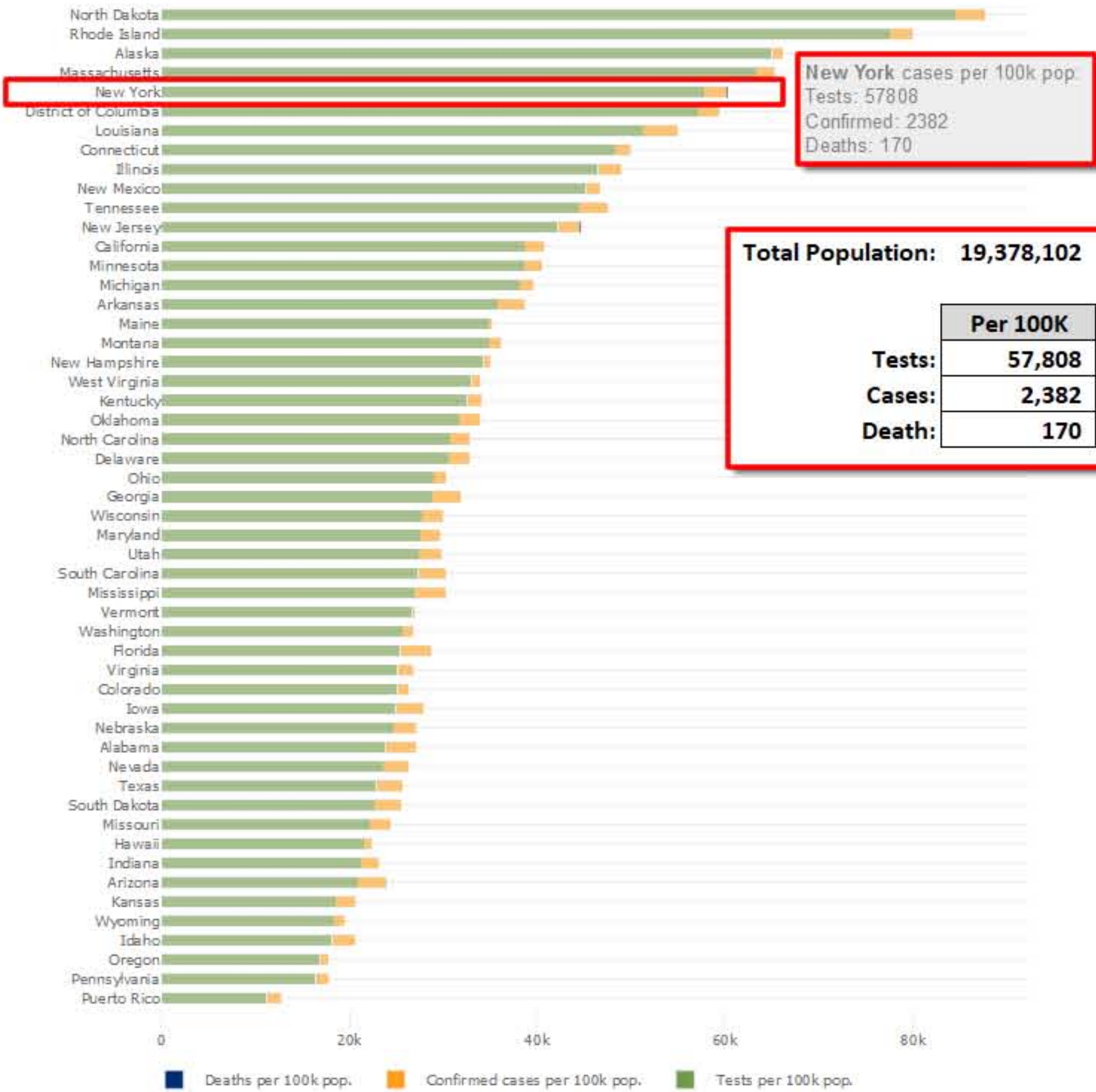
ALL STATE COMPARISON OF TESTING EFFORTS

Through up-to-date visuals, track how testing volume, positivity, and proportion give a sense of whether the occurrence of new cases is slowing or growing.

SHARE:    

Testing Totals By Population

Testing Weekly Change



STATE	TESTS	CONFIRMED CASES	DEATHS
Alabama	23886	3268	52.4
Alaska	65005	1168	7.9
Arizona	20956	3083	79.6
Arkansas	35806	2901	48.0
California	38683	2112	40.9
Colorado	25117	1291	36.3
Connecticut	48331	1655	126.4
Delaware	30588	2209	66.7
District of Columbia	57166	2213	89.8
Florida	25412	3370	69.1
Georgia	28830	3077	68.4
Hawaii	21550	905	11.1
Idaho	18137	2532	27.8
Illinois	46524	2402	71.1
Indiana	21297	1883	55.0
Iowa	24968	2955	44.3
Kansas	18585	2124	24.0
Kentucky	32535	1637	27.2
Louisiana	51310	3616	119.9
Maine	34869	414	10.6
Maryland	27609	2115	65.5
Massachusetts	63329	1963	138.1
Michigan	38204	1428	71.4
Minnesota	38669	1868	38.1
Mississippi	26966	3372	100.9
Missouri	22177	2210	35.7
Montana	34828	1398	17.9
Nebraska	24722	2501	26.1
Nevada	23615	2717	53.5
New Hampshire	34345	637	32.7
New Jersey	42185	2343	181.2
New Mexico	45239	1462	42.7
New York	57808	2382	170.0
North Carolina	30759	2116	35.0
North Dakota	84553	3139	36.4
Ohio	28985	1368	42.2
Oklahoma	31677	2333	26.8
Oregon	16919	836	13.6
Pennsylvania	16437	1320	64.1
Puerto Rico	11182	1606	21.8
Rhode Island	77584	2404	106.0
South Carolina	27322	2993	68.0
South Dakota	22720	2788	28.1
Tennessee	44530	3009	38.4
Texas	22896	2767	57.3
Utah	27401	2490	15.2
Vermont	26745	290	9.3
Virginia	25124	1788	38.4
Washington	25690	1198	28.6
West Virginia	33034	927	20.3
Wisconsin	27767	2311	23.8
Wyoming	18375	1147	9.2

TESTS: per 100k pop.
CONFIRMED CASES: per 100k pop
DEATHS: per 100k pop

EXHIBIT 2-8

ABOUT THIS PAGE:

This page was last updated on Wednesday, October 7, 2020 at 3:00 AM EDT.

CASES, DEATHS, AND TESTING IN ALL 50 STATES

U.S.: Are We Testing Enough?

This graph shows the total number of cases, deaths, and tests performed in each state per 100,000 people. By comparing the rate of cases and deaths, we can get a sense of how COVID-19 has affected each state. Since confirmed case numbers may be dependent on how much testing a state is doing, it is also important to see how many tests have occurred in each state. If people who are infected cannot get tested, they will not be counted as a confirmed case in the state's data.

Data Sources:

Testing data from The COVID Tracking Project; cases data from JHU CSSE; and population from ACS 1-year data (2018).; It is important to track the testing that states are doing to diagnose people with COVID-19 infection in order to gauge the spread of COVID-19 in the U.S. and to know whether enough testing is occurring. When states report the number of COVID-19 tests performed, this should include the number of viral tests performed and the number of patients for which these tests were performed. Currently, states may not be distinguishing overall tests administered from the number of individuals who have been tested. This is an important limitation to the data that is available to track testing in the U.S., and states should work to address it.

When states report testing numbers for COVID-19 infection, they should not include serology or antibody tests. Antibody tests are not used to diagnose active COVID-19 infection and they do not provide insights into the number of cases of COVID-19 diagnosed or whether viral testing is sufficient to find infections that are occurring within each state. States that include serology tests within their overall COVID-19 testing numbers are misrepresenting their testing capacity and the extent to which they are working to identify COVID-19 infections within their communities. States that wish to track the number of serology tests being performed should report those numbers separately from viral tests performed to diagnose COVID-19.

New York Coronavirus Deaths Per Day

9.00 for Oct 07 2020

Basic Info

EXHIBIT 2-9

New York Coronavirus Deaths Per Day is at a current level of 9.00, unchanged from 9.00 yesterday. This is a change of 0.00% from yesterday.

Report The COVID Tracking Project Stats

Category Environment

Region New York

Source The COVID Tracking Project

Level Chart

[VIEW FULL CHART](#)

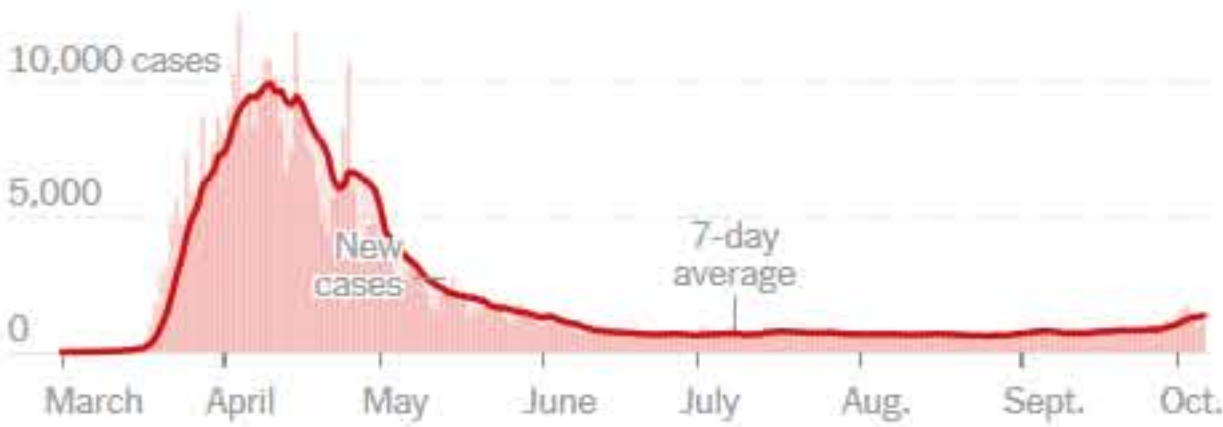
Historical Data

View and export this data back to . [Upgrade now.](#)

Date	Value	Date	Value
October 07, 2020	9.00	September 12, 2020	2.00
October 06, 2020	9.00	September 11, 2020	5.00
October 05, 2020	8.00	September 10, 2020	7.00
October 04, 2020	14.00	September 09, 2020	3.00
October 03, 2020	8.00	September 08, 2020	6.00
October 02, 2020	7.00	September 07, 2020	2.00
October 01, 2020	11.00	September 06, 2020	9.00
September 30, 2020	9.00	September 05, 2020	2.00
September 29, 2020	2.00	September 04, 2020	5.00
September 28, 2020	12.00	September 03, 2020	7.00
September 27, 2020	6.00	September 02, 2020	5.00
September 26, 2020	4.00	September 01, 2020	3.00
September 25, 2020	7.00	August 31, 2020	1.00
September 24, 2020	2.00	August 30, 2020	8.00
September 23, 2020	5.00	August 29, 2020	7.00
September 22, 2020	4.00	August 28, 2020	3.00
September 21, 2020	1.00	August 27, 2020	4.00
September 20, 2020	2.00	August 26, 2020	8.00
September 19, 2020	2.00	August 25, 2020	2.00
September 18, 2020	10.00	August 24, 2020	7.00
September 17, 2020	3.00	August 23, 2020	6.00
September 16, 2020	5.00	August 22, 2020	4.00
September 15, 2020	11.00	August 21, 2020	3.00
September 14, 2020	4.00	August 20, 2020	5.00
September 13, 2020	6.00	August 19, 2020	6.00

New York Covid Map and Case Count

By The New York Times Updated October 7, 2020, 8:14 P.M. E.T.



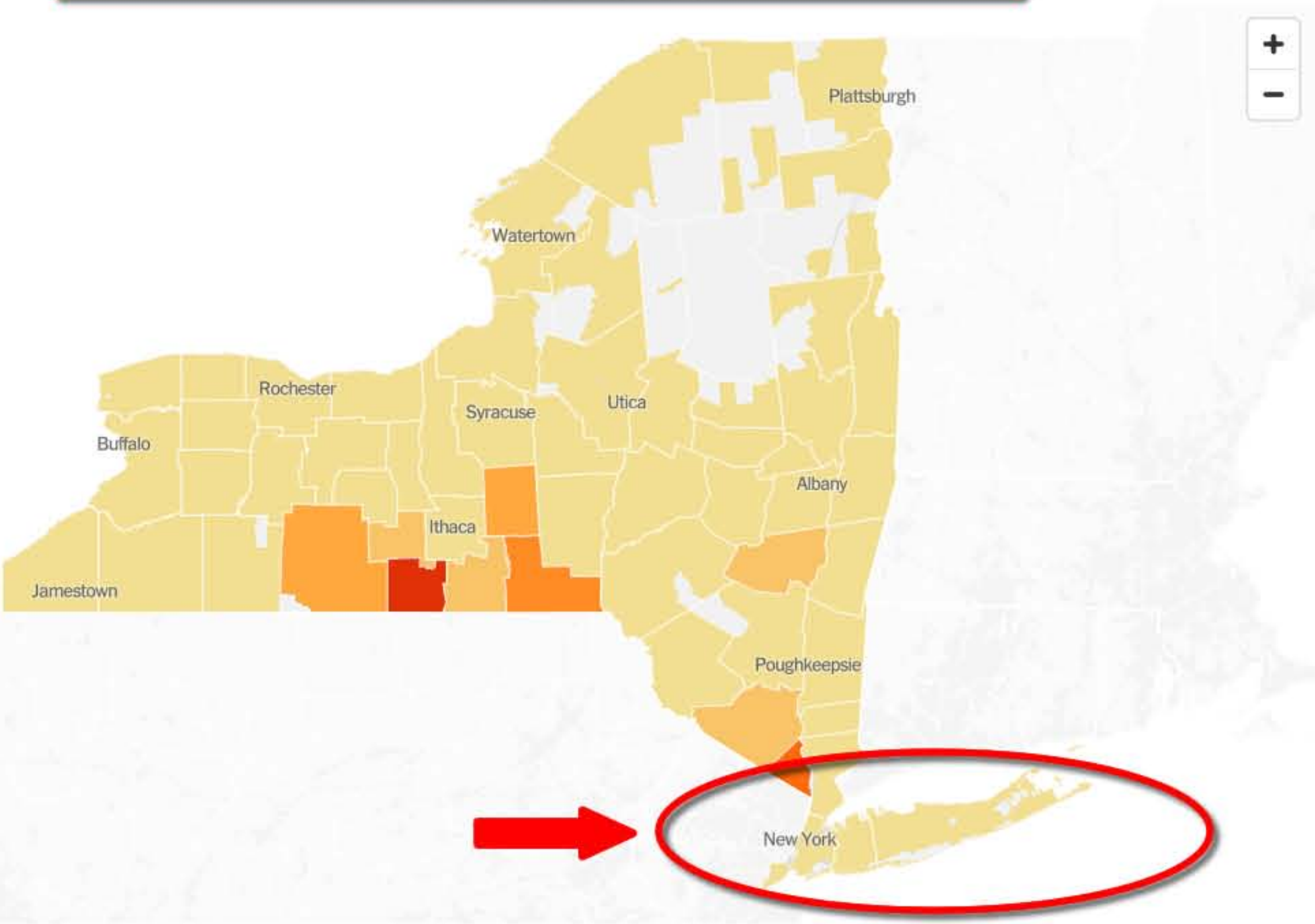
	TOTAL REPORTED	ON OCT. 6	14-DAY CHANGE
Cases	472,994	1,394	+68% ↗
Deaths	32,850	9	+70% ↗

Includes confirmed and probable cases where available. 14-day change trends use 7-day averages.

- Map
- By county
- New cases
- Clusters

At least 9 new coronavirus deaths and 1,394 new cases were reported in New York on Oct. 6. Over the past week, there have been an average of 1,325 cases per day, an increase of 68 percent from the average two weeks earlier.

As of Wednesday evening, there have been at least 472,994 cases and 32,850 deaths in New York since the beginning of the pandemic, according to a New York Times database.



September 28, 2020					
REGION	COUNTY	ZIP	% POSITIVE	TESTS	POSITIVES
				EXHIBIT 2-11	
Mid-Hudson	Orange	10950	18%	211	39
Mid-Hudson	Rockland	10952	10%	154	15
Mid-Hudson	Rockland	10977	8%	330	27
NYC	Kings	11223	7%	347	24
NYC	Queens	11374	5%	151	8
NYC	Queens	11691	4%	608	27
Southern Tier	Broome	13760	4%	163	7
NYC	Kings	11229	4%	299	12

REGION	COUNTY	ZIP	% POSITIVE	TESTS	POSITIVES
Mid-Hudson	Rockland	10952	17%	200	34
Mid-Hudson	Rockland	10977	14%	350	50
NYC	Kings	11230	8%	342	29
NYC	Kings	11204	6%	223	13
NYC	Kings	11219	5%	260	12
NYC	Kings	11223	4%	253	11
NYC	Kings	11229	4%	286	11
NYC	Kings	11210	4%	182	7
NYC	Kings	11234	4%	279	10
NYC	Bronx	10465	4%	140	5

Governor Cuomo Deploys Rapid Result

SHARE



Each New York City borough's percentage of positive test results reported over the last three days is as follows:

EXHIBIT 2-12

BOROUGH	9/25/20 FRIDAY	9/26/20 SATURDAY	9/27/20 SUNDAY
Bronx	0.9%	1.0%	1.0%
Brooklyn	1.6%	2.0%	2.6%
Manhattan	0.5%	0.4%	0.8%
Queens	1.0%	1.2%	1.6%
Staten Island	1.2%	1.0%	1.3%

Governor Cuomo Updates New Yorkers

SHARE



Each New York City borough's percentage of positive test results reported over the last three days is as follows:

EXHIBIT 2-12

BOROUGH	9/28/20 MONDAY	9/29/20 TUESDAY	9/30/20 WEDNESDAY
Bronx	1.0%	1.1%	1.3%
Brooklyn	1.7%	1.8%	1.9%
Manhattan	0.7%	0.6%	0.7%
Queens	1.5%	1.2%	1.3%
Staten Island	1.6%	2.2%	1.6%

EXHIBIT 2-12

BOROUGH	TUESDAY	WEDNESDAY	10/1/20 THURSDAY
Bronx	1.1%	1.3%	1.0%
Brooklyn	1.8%	1.9%	1.9%
Manhattan	0.6%	0.7%	0.7%
Queens	1.2%	1.3%	1.7%
Staten Island	2.2%	1.6%	1.5%

Governor Cuomo Updates New Yorkers

SHARE



Each New York City borough's percentage of positive test results reported over the last three days is as follows:

EXHIBIT 2-12

BOROUGH	10/2/20 FRIDAY	10/3/20 SATURDAY	10/4/20 SUNDAY
Bronx	1.0%	1.0%	1.4%
Brooklyn	2.3%	2.4%	2.5%
Manhattan	0.7%	0.7%	0.7%
Queens	1.2%	1.3%	1.6%
Staten Island	1.4%	1.1%	1.1%



Each New York City borough's percentage of positive test results reported over the last three days is as follows:

EXHIBIT 2-12

BOROUGH	10/4/20 SUNDAY	10/5/20 MONDAY	10/6/20 TUESDAY
Bronx	1.4%	1.4%	0.9%
Brooklyn	2.5%	2.1%	2.2%
Manhattan	0.7%	0.7%	0.5%
Queens	1.6%	1.3%	1.7%
Staten Island	1.1%	1.8%	1.4%



Reopening New York

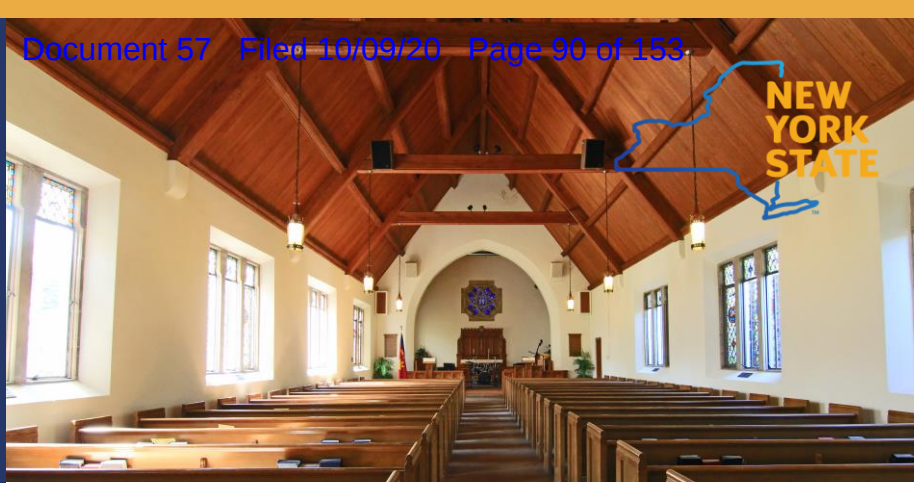
Guidelines for Religious and Funeral Services

EXHIBIT 2-13

These guidelines apply to all religious and funeral gatherings, including burial and committal services, statewide.

During the COVID-19 public health emergency, all operators of religious and funeral services should stay up to date with any changes to state and federal requirements related to religious and funeral services and incorporate those changes into their operations. This guidance is not intended to replace any existing applicable local, state, and federal laws, regulations, and standards.

	Mandatory	Recommended Best Practices
Physical Distancing	<ul style="list-style-type: none">✓ For any religious or funeral service, limit the congregant/attendee capacity to:<ul style="list-style-type: none">• In Phase 1 regions, no more than 10 people for any services occurring indoor or outdoor.• In Phase 2 and 3 regions, no more than 25% of the maximum occupancy for a particular area for services occurring indoor; or no more than 25 people for services occur outdoor.• In Phase 4 regions, no more than 33% of the maximum occupancy for a particular area for services occurring indoor; or no more than 50 people for services occurring outdoor.<ul style="list-style-type: none">• If separate buildings are available for use, may have multiple groups of 10 in separate buildings at the same time in Phase 1; a maximum occupancy of 25% in separate buildings at the same time in Phases 2 and 3; or a maximum occupancy of 33% in separate buildings at the same time in Phase 4, so long as the buildings have separate entrances and exits designated and groups do not interact.✓ A distance of at least 6 ft. must be maintained amongst all individuals at all times, unless safety or the core activity requires a shorter distance (e.g. pallbearing) or the individuals are members of the same household. However, any singing activity must provide for a distance between individuals of 12 ft., subject to additional protective measures.✓ Any time employees, volunteers, and/or attendees must come within 6 ft. of one another (or 12 ft., if singing), they must wear acceptable face coverings, unless they are members of the same household.✓ Prohibit the use of small spaces (e.g. elevators, vehicles) by more than one individual at time, unless all individuals are wearing face coverings. If occupied by more than one person, keep occupancy under 50% of maximum capacity.✓ Prohibit holding or shaking hands of members in different households during services or prayers.	<ul style="list-style-type: none">✓ Limit in-person presence of staff to only those employees/volunteers necessary.✓ Modify the use and/or restrict the number of stations (e.g. podiums) and seating areas, so that staff members, volunteers, and attendees are at least 6 ft. apart in all directions and are not sharing stations or seats without cleaning and disinfection between use, unless all individuals are members of the same household.✓ Hold services outdoors (e.g. services for religious gatherings, graveside-only funerals) and/or provide remote service options (e.g. live streaming, AM/FM broadcast), when possible.✓ Offer advanced sign-ups to manage capacity.✓ Change or remove practices that involve close contact or sharing things among members of different households (e.g. sharing a car or limousine ride between locations, providing food/beverages for attendees before, during, or after the event or service).✓ Hold drive-in services. Ensure attendees remain in the vehicle in which they arrived and that they don't interact physically with clergy, employees, or attendees in other vehicles; vehicles should contain only members of a single household, and cars must be at least 6 ft. apart or use alternate parking spaces.✓ Reduce bi-directional foot traffic by posting signs with arrows in narrow aisles, hallways, or pews.



Reopening New York

Guidelines for Religious and Funeral Services

EXHIBIT 2-13

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During the COVID-19 public health emergency, all operators of religious and funeral services should stay up to date with any changes to state and federal requirements related to religious and funeral services and incorporate those changes into their operations. This guidance is not intended to replace any existing applicable local, state, and federal laws, regulations, and standards.

	Mandatory	Recommended Best Practices
Physical Distancing (cont'd)	<ul style="list-style-type: none">✓ Limit activities involving singing (e.g. choir, soloist, cantor, musical ensemble), unless 12 ft. of separation can be provided between individuals or additional distancing or physical barriers can reduce transmission of respiratory droplets.✓ Establish designated areas for pickups and deliveries.	
Protective Equipment	<ul style="list-style-type: none">✓ Provide workers with an acceptable face covering at no-cost to the worker and have an adequate supply of coverings in case of replacement.✓ Acceptable face coverings include but are not limited to cloth (e.g. homemade sewn, quick cut, bandana), surgical masks, and face shields.✓ Face coverings are required at all times except while seated, provided all individuals are 6 ft. apart except for immediate household members. Faith leaders, officiants, volunteers, and/or attendees must be prepared to don a face covering if another person unexpectedly comes within 6 ft. (e.g. when walking to seats).✓ Face coverings must be cleaned or replaced after use and may not be shared. Consult the CDC guidance for additional information on cloth face coverings and other types of personal protective equipment (PPE), as well as instructions on use and cleaning.✓ If providing gowns or other garments, ensure they are cleaned and laundered between uses.✓ Train workers on how to don, doff, clean (as applicable), and discard PPE.✓ Limit the sharing of objects (e.g. religious texts, collection plates) as well as the touching of shared surfaces (e.g. pews, instruments, doors, railings); or, require individuals to wear gloves when in contact with shared objects or frequently touched surfaces; or, require individuals to sanitize or wash their hands before and after contact.	<ul style="list-style-type: none">✓ Place donation plates/boxes in central location with proper distancing protocols in place.✓ Remove religious texts from pews or benches, and encourage congregation to bring their own.✓ If choir/musical ensemble meets enhanced distancing measures, encourage members to launder their own gowns at home and bring their own instruments, where possible.✓ Adapt certain religious practices that traditionally require close contact in order to minimize contact between individuals.✓ Empty fonts or other shared water-related service or ceremonial activities.



Reopening New York

Guidelines for Religious and Funeral Services

EXHIBIT 2-13

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	Mandatory	Recommended Best Practices
Hygiene, Cleaning, and Disinfection	<ul style="list-style-type: none">✓ Adhere to hygiene, cleaning, and disinfection requirements from the Centers for Disease Control and Prevention (CDC) and Department of Health (DOH) and maintain cleaning logs on site that document date, time, and scope of cleaning.✓ Provide and maintain hand hygiene stations on site, including handwashing with soap, water, and paper towels, as well as an alcohol-based hand sanitizer containing 60% or more alcohol for areas where handwashing is not feasible. Hand sanitizer must be placed throughout the location.✓ Provide and encourage participants to use cleaning/disinfection supplies before and after use of shared and frequently touched surfaces, followed by hand hygiene.✓ Ensure distancing rules are adhered to in restrooms by reducing capacity, where feasible.✓ Regularly clean and disinfect the location or facility and conduct more frequent cleaning and disinfection for high risk areas used by many individuals (e.g. restrooms) and for frequently touched surfaces, using Department of Environmental Conservation (DEC) products identified by the Environmental Protection Agency (EPA) as effective against COVID-19.✓ If cleaning or disinfection products or the act of cleaning and disinfecting causes safety hazards or degrades the material (e.g. religious artifact), put in place hand hygiene stations, supply gloves, and/or limit the number of individuals touching such material.✓ For funeral-related services, prohibit touching, hugging, or kissing the body of a deceased person who had confirmed or suspected COVID-19, per CDC guidance.✓ Prohibit shared food or beverages (e.g. self-serve meals and beverages).	



Reopening New York

Guidelines for Religious and Funeral Services

EXHIBIT 2-13

These guidelines apply to all religious and funeral gatherings, including burial and committal services, statewide.

During the COVID-19 public health emergency, all operators of religious and funeral services should stay up to date with any changes to state and federal requirements related to religious and funeral services and incorporate those changes into their operations. This guidance is not intended to replace any existing applicable local, state, and federal laws, regulations, and standards.

	Mandatory	Recommended Best Practices
Communication	<ul style="list-style-type: none">✓ Affirm you have reviewed and understand the state-issued industry guidelines, and that you will implement them.✓ Post signage throughout the facility to remind individuals to adhere to proper hygiene, social distancing rules, appropriate use of PPE, and cleaning and disinfecting protocols.✓ Conspicuously post completed safety plans on site.	<ul style="list-style-type: none">✓ Develop a communications plan for employees, volunteers, and congregants, that includes applicable instructions, training, signage, and a consistent means to provide individuals with information. Use webpages, text and email groups, and social media campaigns.
Screening	<ul style="list-style-type: none">✓ Implement mandatory health screening assessment (e.g. questionnaire, temperature check) for employees, faith leaders, and volunteers (but not attendees), asking about (1) COVID-19 symptoms in past 14 days, (2) positive COVID-19 test in past 14 days, and/or (3) close contact with confirmed or suspected COVID-19 case in past 14 days. Responses must be reviewed and such review must be documented.✓ A person who screens positive for COVID-19 symptoms must not be allowed to enter the gathering place and must be sent home with instructions to contact their healthcare provider for assessment and testing.✓ If an employee or faith leader tests positive for COVID-19, immediately notify state and local health departments and cooperate with contact tracing efforts, including notification of potential contacts who had close contact with the worker, while maintaining confidentiality as required by state and federal law and regulations.	<ul style="list-style-type: none">✓ Perform screening remotely (e.g. by telephone or electronic survey), before people arrive, to the extent possible.✓ Coordinate screening to prevent people from intermingling in close contact with each other prior to completion of the screening.✓ Screeners should be trained by individuals familiar with CDC, DOH, and OSHA protocols and wear appropriate PPE, including at a minimum, a face covering.✓ Maintain a continuous log of every person, including workers and visitors, who may have close contact with other individuals at the gathering site or area; excluding deliveries that are performed with appropriate PPE or through contactless means. The log is not required to maintain a list of attendees.✓ Encourage, but do not mandate, attendees to complete a screening and provide contact information, so they can be logged and contacted for contact tracing, if necessary.✓ Refer to DOH's "Interim Guidance for Public and Private Employees Returning to Work Following COVID-19 Infection or Exposure" regarding protocols and policies for employees seeking to return to work after a suspected or confirmed case of COVID-19 or after the employee had close or proximate contact with a person with COVID-19.



Services

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EXHIBIT 3-1

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GOVERNOR ANDREW M. CUOMO

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OCTOBER 5, 2020 | Albany, NY

Governor Cuomo Updates New Yorkers on State's Progress During COVID-19 Pandemic

CORONAVIRUS

HEALTH

PUBLIC SAFETY

SHARE   

Directs Schools in Hot Spot Zip Codes Identified by New York City to Temporarily Close In-Person Learning Beginning Tomorrow

Governor to Meet with Communities in Brooklyn, Queens and Rockland, Orange and Nassau Counties to Discuss Religious Gatherings

New York State to Oversee Enforcement in Statewide Hot Spot Clusters

20 ZIP Codes in Areas with Hot Spots - Brooklyn, Queens and Rockland and Orange Counties - Have 5.5 Percent Positivity Rate

Statewide Positivity Excluding Hot Spot ZIP Codes is 1.01 Percent; 1.22 Percent with Hotspot ZIP Codes Included

8 COVID-19 Deaths in New York State Yesterday

SLA and State Police Task Force Visits 587 Establishments; Observes 0 Establishments Not in Compliance

Governor Andrew M. Cuomo today updated New Yorkers on the state's progress during the COVID-19 pandemic and directed schools in hot spot ZIP codes identified by New York City to temporarily close in-person learning beginning tomorrow. The governor noted that New York State needs more data on the threat COVID-19 poses in those schools. Governor Cuomo also announced he will meet with the communities in Brooklyn, Queens, and Rockland, Orange and Nassau Counties to address religious gatherings. New York State will oversee enforcement in statewide hot spot clusters. Yesterday, Governor Cuomo announced that New York State is deploying personnel [to directly enforce](#) state guidance within the hot spot ZIP codes. New York State will review the data in affected ZIP codes, gather more school data and determine criteria for reopening the schools.

In the top 20 ZIP codes in areas that have seen recent outbreaks - Brooklyn, Queens and Rockland and Orange Counties - 3,473 tests were conducted, yielding 193 positives or a 5.5 percent positivity rate. In the remainder of the state, 72,931 tests were conducted yielding 740 positives or a 1.01 percent positivity rate.

Weekly Bulletins	▼
DFS Annual Reports	
Other Reports	
Consumer Brochures (for Printing)	

Press Release

September 30, 2020

EXHIBIT 2-14

GOVERNOR CUOMO UPDATES NEW YORKERS ON STATE'S PROGRESS DURING COVID-19 PANDEMIC

Top 20 Hotspot ZIP Codes Have 5.5 Percent Positivity Rate

Statewide Positivity Excluding Hotspot ZIP Codes is 0.82 Percent; 1.02 Percent with Hotspot ZIP Codes Included

DFS Extends Emergency Regulation Requiring Insurance Companies to Waive Out-Of-Pocket Costs for In-Network Mental Health Services for Frontline Essential Workers During COVID-19 Until November 27

9 COVID-19 Deaths in New York State Yesterday

SLA and State Police Task Force Visits 1,114 Establishments; Observes 4 Establishments Not in Compliance

Confirms 1,000 Additional Coronavirus Cases in New York State - Bringing Statewide Total to 458,649; New Cases in 49 Counties

Governor Andrew M. Cuomo today updated New Yorkers on the state's progress during the ongoing COVID-19 pandemic. The number of new cases, percentage of tests that were positive and many other helpful data points are always available at [forward.ny.gov](#).

"We're dealing with the cluster situation. We've had clusters in the past stemming from factories, churches, bars and other locations. Remember we started with New Rochelle, the first hotspot in the United States, which stemmed from someone who attended a religious gathering and then a wedding. And that was the first super spreader event, so we're quite familiar with this, and when there's a cluster, we are very aggressive on it and we're oversampling in the clusters," Governor Cuomo said. "We've deployed rapid testing machines. So you have two infection rates that you want to pay attention to: the statewide numbers and then the cluster numbers. All of this is a stark reminder that we need to stay smart and vigilant - wear a mask, socially distance, follow the public health guidance - because this thing is not over."

New York State continues to track clusters with a particular focus on the top 20 ZIP codes in which there have been hotspots. Within the 20 hotspot ZIP codes, the average rate of positive tests is 5.5 percent. The rate of positive tests for the remainder of New York State, not counting the top 20 ZIP codes, is 0.82 percent. The rate of positive tests for all of New York State, including the top 20 ZIP codes, is 1.02 percent. These 20 ZIP codes contained 23 percent of all positive cases in New York State yesterday, but represent only 6 percent of the state's population.

The Governor noted that 20 hotspot ZIP codes reported an average 5.5 percent positivity rate. Areas that had high positivity rates will be subject of focused testing efforts including access to rapid testing machines. These ZIP codes include:

REGION	COUNTY	ZIP	% POSITIVE	TESTS	POSITIVES
Mid-Hudson	Rockland	10952	17%	200	34
Mid-Hudson	Rockland	10977	14%	350	50
NYC	Kings	11230	8%	342	29
NYC	Kings	11204	6%	223	13
NYC	Kings	11219	5%	260	12
NYC	Kings	11223	4%	253	11
NYC	Kings	11229	4%	286	11
NYC	Kings	11210	4%	182	7
NYC	Kings	11234	4%	279	10
NYC	Bronx	10465	4%	140	5
NYC	New York	10040	4%	198	7
Mid-Hudson	Orange	10950	3%	86	3
NYC	Queens	11374	3%	151	5
NYC	Richmond	10306	3%	152	5
NYC	Richmond	10304	3%	185	6
Long Island	Suffolk	11717	3%	125	4
Long Island	Nassau	11580	3%	138	4
NYC	Queens	11691	3%	255	7
Long Island	Suffolk	11746	3%	183	5
NYC	Bronx	10462	3%	266	7

The Governor also announced the New York State Department of Financial Services will extend an emergency regulation requiring New York health insurers to waive out-of-pocket costs, including cost-sharing, deductibles, copayments and coinsurance, for in-network mental health services for New York's frontline essential workers during COVID-19 until November 27. The extension of this emergency regulation helps to ensure that cost-sharing is not a barrier to in-network mental health services during COVID-19 for health care workers, first responders, transit workers, food services workers, retail workers at essential businesses, and other frontline essential employees, who are required to directly interact with the public while working during this continuing public health emergency. Governor Cuomo first announced the State's directive requiring New York insurers to waive out-of-pocket costs for in-network mental health services for frontline essential workers during COVID-19 in May.

Yesterday, the State Liquor Authority and State Police Task Force visited 1,114 establishments in New York City and Long Island and observed 4 establishments that were not in compliance with state requirements. A county breakdown of yesterday's observed violations is below:

- Brooklyn - 1
- Nassau - 3

Today's data is summarized briefly below:

- Patient Hospitalization - 605 (+34)
- Patients Newly Admitted - 100
- Hospital Counties - 38
- Number ICU - 144 (-3)
- Number ICU with Intubation - 67 (+6)
- Total Discharges - 76,754 (+63)
- Deaths - 9
- Total Deaths - 25,479

Of the 97,960 test results reported to New York State yesterday, 1,000, or 1.02 percent, were positive. Each region's percentage of positive test results reported over the last three days is as follows:

REGION	SUNDAY	MONDAY	TUESDAY
Capital Region	0.9%	0.9%	0.5%
Central New York	0.8%	1.7%	0.4%
Finger Lakes	0.6%	0.9%	0.3%
Long Island	1.2%	1.2%	1.3%
Mid-Hudson	3.1%	2.0%	2.4%
Mohawk Valley	1.2%	0.8%	0.3%
New York City	1.6%	1.3%	1.2%
North Country	0.4%	0.2%	0.2%
Southern Tier	3.6%	1.9%	0.6%
Western New York	0.9%	1.3%	1.1%

Each New York City borough's percentage of positive test results reported over the last three days is as follows:

BOROUGH	SUNDAY	MONDAY	TUESDAY
Bronx	1.0%	1.0%	1.1%
Brooklyn	2.6%	1.7%	1.8%
Manhattan	0.8%	0.7%	0.6%
Queens	1.6%	1.5%	1.2%
Staten Island	1.3%	1.6%	2.2%

The Governor also confirmed 1,000 additional cases of novel coronavirus, bringing the statewide total to 458,649 confirmed cases in New York State. Of the 458,649 total individuals who tested positive for the virus, the geographic breakdown is as follows:

County	Total Positive	New Positive
Albany	3,120	4
Allegany	114	6
Broome	1,673	31
Cattaraugus	276	5
Cayuga	220	1
Chautauqua	590	5
Chemung	510	18
Chenango	253	2
Clinton	162	0
Columbia	595	3
Cortland	184	3
Delaware	136	0
Dutchess	5,137	7
Erie	11,500	55
Essex	169	1
Franklin	66	0
Fulton	339	0
Genesee	330	3
Greene	325	2
Hamilton	15	0
Herkimer	338	1
Jefferson	172	2
Lewis	50	0
Livingston	208	1
Madison	497	0
Monroe	6,085	11
Montgomery	235	1
Nassau	46,857	66
Niagara	1,788	5
NYC	244,041	446
Oneida	2,436	4
Onondaga	4,424	15
Ontario	475	0
Orange	12,143	21
Orleans	336	1
Oswego	503	4
Otsego	341	1
Putnam	1,617	5
Rensselaer	919	3
Rockland	15,452	110
Saratoga	1,066	6
Schenectady	1,410	5
Schoharie	85	0
Schuyler	43	0
Seneca	107	0
St. Lawrence	327	2
Steuben	453	3
Suffolk	46,517	53
Sullivan	1,604	4
Tioga	249	7
Tompkins	421	4
Ulster	2,280	8
Warren	391	5
Washington	302	1
Wayne	323	2
Westchester	38,239	57
Wyoming	137	0
Yates	64	0

Yesterday, there were 9 deaths due to COVID-19 in New York State, bringing the total to 25,479. A geographic breakdown is as follows, by county of residence:

Deaths by County of Residence	
County	New Deaths
Allegany	2
Chemung	1
Essex	1
Kings	2
Queens	2
Suffolk	1

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New York Gov. Andrew Cuomo Press Conference Transcript October 5 - Rev

Governor Andrew M. Cuomo: (00:00)

... the delay. I pride myself on my punctuality. But some of the issues that we're going to discuss today we were just working on resolving and that's the reason for the delay. From my far right, Mr. Gareth Rhodes. To his left, Dr. James Malatras. To my right Melissa DeRosa, secretary to the governor. To my left, Dr. Howard Zucker, health commissioner extraordinaire. To his left, the ever- smiling and jovial, Rob Mujica, budget director. Thank you and again, I apologize for being late. Today is day 219, but it feels like just yesterday that this started, doesn't it? Have that same freshness and energy. Groundhog Day. Remember that movie, Groundhog day?

Governor Andrew M. Cuomo: (00:54)

These are the numbers for today. Again, we're looking at two different universes. Now it's a little different than the past. We're looking at the statewide numbers and we are hyper-focused on what we call hotspots. Where was the first hotspot in the United States of America? Trivia contest.

Speaker 1: (01:21)

New Rochelle.

Governor Andrew M. Cuomo: (01:21)

Yay, you win. Three questions today. We had the first hotspot cluster in the United States, New Rochelle, New York. So we know this well. We're oversampling in the hotspots and with testing all across the state. The 20 hotspot zip codes, 5.5%. Our hotspot zip codes are where many states are right now. And you'll see it in some of the numbers. Statewide positivity rate is 1. 01 outside of the hotspot zip codes. One percent is an unbelievably low infection rate. And as we are going into the fall, I believe it's going to be practically unsustainable, but it's remarkable that we're that low right now.

Governor Andrew M. Cuomo: (02:25)

If you roll in the hotspot zip codes, which now distorts the balance of the sample, it's 1.2. Number of deaths, eight. They are in our thoughts and prayers. Statewide white hospitalization 636. ICU, 149. Statewide intubation, 70. Context first, we're coming into the fall. We have been told since early March, beware the fall. Beware the fall. Weather gets colder. More people move in doors. Flu season. Schools open. Schools opening are almost a predictor of increased infection rate. Colleges opening turned out to be more problematic than we thought, colleges opening. SUNY's doing a great job. That's why Dr. Jim Malatras is here today. If SUNY was not doing a great job, Dr. Jim Malatras would not be here today. That's how you know that.

Governor Andrew M. Cuomo: (03:29)

So the fall is a challenging period, as we know. And we expect to see the infection rate go up in the fall. Context. All over the globe, the infection rate is going up. All over the globe. Countries that were doing remarkably well are now seeing spikes. U.S.A. overall is going up. Israel has a real problem. EU has a real problem. Canada has a problem. Argentina has a problem. The UK has a problem. And the UK, remember, they were up, they were down. They're up again. You look across the nation. States are all going up. So context, beware the fall has been right. New York

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is the outlier in all of these international and national trajectories. We are the exception to the rule. This is the one situation where we want to be the exception to the rule. Other states up, other countries up.

EXHIBIT 3-2

Governor Andrew M. Cuomo: (04:51)

That in and of itself is a complicating factor because New York state is not hermetically sealed. We put a quarantine in effect, I know, but people still drive in. It's still water through a screen. People are still coming in on flights. International flights. People in Texas are coming in. People in California are coming in. People in New Jersey are coming in. So that's an added problem for us. If you look at the hotspot infection rate yesterday, western New York is a hotspot. Yesterday was a good day, 1.2%. Broom has a hotspot. Came out of a pub restaurant, but a Broom has a hotspot. Orange County, Rockland County, Brooklyn, Nassau could be on there with a hot spot in one section of Nassau.

Governor Andrew M. Cuomo: (05:55)

These clusters have to be attacked. Picture that map as a map of dry grass and picture those hotspots as embers within the field of dry grass. That's how I think of it. The only course is to run to those embers and stamp them out immediately and dramatically. That's why I don't sleep at night. So you have to attack the clusters. How do you attack the clusters? Testing, Testing, testing, testing. Get the facts, follow the data, contact tracing off the testing. Testing in itself doesn't tell you anything, just that you have a problem. Contact tracing helps you solve the problem. And enforcement. Enforcement. "Oh, that's so harsh enforcement." Yeah, it's not. Enforcement is kind. You know why? Because enforcement saves lives. That's what enforcement does.

Governor Andrew M. Cuomo: (07:24)

Lack of enforcement is not kind. I believe that. I believe that. And I have said that from day one. And the state has been bullish on this and it has worked. It's worked. It's not like I'm putting forth a proposition. Enforcement works. Any rule is only as good as the enforcement. Don't speed. Are you enforcing it? Don't litter. Are you enforcing it? Any rule is only as good as the enforcement, especially when it's a rule that people don't want to follow. Seat belts. Only as good as you enforce it. Don't text and drive. Only as good as you enforce it. I say to people, when I see them texting and driving, I say to them, I pull up, I roll down my window. I say, "Hi, you are texting and driving. That is a violation of the law. I know because I passed that law." It's only as good as the enforcement.

Governor Andrew M. Cuomo: (08:39)

We're New York tough. What's within tough? Smart. Follow the data. Follow the analytics. Disciplined. Do the enforcement. Stick to the rules. Stick to what's working. I've said this 100 times. But at this point in my life, I've said everything 100 times. Too many local governments are not doing enforcement. Warnings are not enforcement. "Put a mask on, or I will ticket you," is not enforcement. "Store owner, you're not supposed to have this many people in your store." We are past that. Everybody knows the rules. You don't have to pull over a car today and say, "You're not supposed to text and drive." They know that. They know that. What you wind up saying is, "I got away with it." We've been saying you get away with it for too long. And we have lived through this repeatedly.

Governor Andrew M. Cuomo: (09:54)

This was bars and restaurants. How many, the times did I come before you and say, "Bars and restaurants are a problem. We have gatherings in front of bars and restaurants. Local governments have to do the enforcement." Week after week after week. And it got worse and worse and it got worse. I even said, "Forget it. I give up.

The state government will do bars and restaurants.” And we put together a task force. We did over a thousand violations. And you know what? Compliance with bars and restaurants is markedly better than it has been. When was the last time many of you wrote a story about bars and restaurants and gatherings in front of bars and restaurants. Why? Because the owners know they’ll lose their license. “Oh, that’s tough.” No, we saved lives. I believe that. We saved lives. New York City has clusters. Queens, Brooklyn. We also have clusters akin to this, Orange, Rockland, a little bit in Nassau.

Governor Andrew M. Cuomo: (11:14)

I just got off the telephone with Mayor de Blasio, Comptroller stringer Council Speaker Johnson, UFT President Mike Mulgrew. We had a very good conversation. It was a collaborative, positive conversation. It’s a complex situation, works on a number of levels. There are a number of issues. And we talked through them. We have clusters where the viral infection rate is higher by 3-4%. Where does the virus mainly transmit? Dr. Zucker was on the phone, we asked him that question. Schools, which are also the place where different communities come together. So my child goes to a private school, your child goes to a public school. But our children are on the same hockey team or on the same soccer team. Or they play together in the playground. Schools can be locations of transmissions.

Governor Andrew M. Cuomo: (12:29)

Religious gatherings, especially in these communities. New Rochelle, first hotspot, was an Orthodox Jewish man who went to a temple, hundreds of people. And then a wedding. Hundreds of people. Orthodox Jewish gatherings often are very, very large. And we’ve seen what one person can do in a group. Look at this Rose Garden with the President, by the way. Outdoor event. “Oh, those are safe. Outdoor events.” No, no, no. Safer than indoor. Nobody ever said safe. Safer than indoor. And look at that growing list of people at a Presidential Rose Garden event who were theoretically tested before they came in. How many people could have been infected? One, two? And look at the spread in the Rose Garden. You know what happens here. You’ve seen it over and over again.

Governor Andrew M. Cuomo: (13:43)

Third are public spaces. These are basically in priority order. Fourth are businesses where consumers may interact, but that is way down on the list, relatively. And the key to all of these areas is enforcement. All of them. We have rules for all these areas. We have rules for all these areas in place now. Well, then how’s it increasing? Because people are not following the rules, that’s why. On schools. My number one concern has always been schools. I said to the parents of this state, “I will not send, I will not allow your child to be sent to any school that I would not send my child.” Period. And you have my personal word on that. I’ve spoken to thousands of parents who have called up and said, “I’m worried about sending my child to school.” I said, “I won’t allow a school to open that I wouldn’t send my child to.” That’s my test. On the schools in these areas, not all of them have been tested.

Governor Andrew M. Cuomo: (15:03)

So we don’t have data on all of the schools in these hotspot clusters. That troubles me. And on the telephone call, we were all basically in agreement. They have sampled some schools in the clusters, but not all the schools. And these are the hotspot clusters. So if you have to prioritize testing, you want to go to these schools first because you know they are in hotspot clusters. So some schools in those clusters, we have not yet done testing on. Better safe than sorry, I would not send my child to a school in a hotspot cluster that has not been tested where I did not have proof that the infection rate was low in that school. I would not send my child.

I am not going to recommend or allow any New York City family to send their child to a school that I wouldn't send my child. We're going to close the schools in those areas tomorrow. And that's that.

Governor Andrew M. Cuomo: (16:23)

Religious gatherings. The City's proposal does not close religious institutions. We know religious institutions have been a problem. We know mass gatherings are the super spreader events. We know there have been mass gatherings going on in concert with religious institutions in these communities for weeks. For weeks. I don't mean little violations. You're only supposed to have 50, they had 55. I'm talking about, you're only supposed to have 50 outdoors, they had 1,000. These are pictures from the past couple of weeks. And these are just emblematic.

Governor Andrew M. Cuomo: (17:41)

You've all seen pictures like this for weeks. What did you think was going to happen? What do you think was going to happen? Religious institutions are mass gatherings and raise the greatest potential. It's schools and it's large mass gatherings. Schools, frankly, because they're students and that's where our heart goes, our priority goes. But in terms of numbers, it's large gatherings and large religious gatherings are large gatherings. These have been going on for weeks. You don't see masks and you see clear violation of social distancing. When were these pictures from?

Speaker 2: (18:47)

The one on the right is more recent than the one on the left.

Governor Andrew M. Cuomo: (18:51)

Okay. But they're in the recent past. So this has been going on for weeks. We've been talking about it for weeks. If we're going to keep religious institutions open, it can only be with two conditions. One, the community must agree, whether it's the Jewish community, whether we're talking about Black churches, whether we're talking about Roman Catholic churches, the religious community has to agree to the rules. And they have to agree that they are going to follow the rules and they have to agree that they are going to be a full partner in the enforcement of the rules. That's condition one. I'm going to meet with members of the ultra-Orthodox community tomorrow. I want to have that conversation directly myself. This cannot happen again. If you do not agree to enforce the rules-

Governor Andrew M. Cuomo: (20:03)

If you do not agree to enforce the rules, then we'll close the institutions down. I am prepared to do that. Second, after we receive the agreement, an agreement is only as good as the enforcement. We have to have real enforcement in these clusters and the other statewide clusters. The enforcement will help the community. If the rule is no more than 50% of the people in a black church, I want someone at that door when 50% enter the church. A person there who says to the pastor, "You agreed to follow the rules. That's 50%, that's it, or we close it down." It does not work without enforcement, but both of those conditions have to be in place. If I do not have the agreement from the religious community directly as a starting point, then we will close down the religious institutions. If they do agree to do it in partnership, then I want a real enforcement capacity. We're not going to make the same mistake twice. Tomorrow, I'm going to meet with the larger congregations, New York City, Rockland, Orange, Nassau, and have that conversation. That's step one. If we get past step one, then we need enforcement in place. Enforcement is enforcement. I've said this to you. I have this conversation with the local officials all day long.

Governor Andrew M. Cuomo: (22:09)

Well, we issue warnings. That's not enforcement. Well, we do public education. That's not enforcement. There is no person in the state of New York who needs you to tell them, at this point, "You must wear a mask." They know they must wear a mask. There was no need for public education. Find me the person who says, "I never heard that. Really? You have to wear a mask? I never heard it." Find me the person in the state who says that. Enforcement is enforcement, okay? New York City only did 26 enforcement actions. Enforcement is here's a violation. New York City deployed 1,000 people for days, three days, 1,000 people for three days is what? Is 24,000 personnel hours. 24,000 personnel hours? You only did 26 enforcement actions? That's not enforcement.

Governor Andrew M. Cuomo: (23:26)

We have to be more aggressive. I understand that it's in politic. I understand the sensitivity in the community now, but I also understand you will see people die if we don't do more enforcement. I also understand that we have learned this experience before. This is the bars and restaurants story. Week, after week, after week, we have to do the enforcement. Nobody's doing the enforcement. Week, after week, after week, nothing changes. The state took it over. I did 1,200 enforcement actions, 228 immediate license revocations just on bars and restaurants.

Governor Andrew M. Cuomo: (24:15)

1,200. Now, was I happy about doing 1200 enforcement actions? No. Immediate license revocation is very difficult. That business basically closes. People lose their jobs. You don't want to do this, but life has options, my friends. You don't do this, the virus spreads, people die. You tell me, which is the nice and kind and responsible course of conduct? 1,200 enforcement actions just on bars and restaurants. That's enforcement. The state is going to take over the enforcement oversight in all the hotspot clusters, okay? Local governments will need to provide us with personnel, but the state will take over the enforcement with the local personnel. I do not have enough state personnel to supplement every local police department in the state. To give you an idea, we have about 5,000 state troopers. There are about 35,000 NYPD, okay?

Governor Andrew M. Cuomo: (25:47)

Most of this enforcement is also going to be done by health department officials, other agency-type officials. I said from day one to the local officials, I understand this is all tough stuff, and politicians like to make people happy as a general rule. I like to make people happy as a general rule too. I just have a superseding rule, which is, I like to keep people alive. I'd rather you be alive and angry at me, than have people happy with me. I'm elected to do a job and be responsible, and that's what I want to do. I said from day one, blame me. Blame me. You have to revoke a bar owner's license? Blame me. We have to close a temple because it's over 50%? I'll do it. We have to close a Roman Catholic church? I'll do it. I had to close the St. Patrick's Day parade? I did it. I'll do it, but none of these rules are going to make a darn if you don't have the enforcement.

Governor Andrew M. Cuomo: (27:04)

Another issue that came up on the phone, which is right. Targeting by zip codes is imperfect. The virus doesn't travel by zip codes. Neighborhoods and communities aren't organized by zip codes. Zip codes can be arbitrary and can leave out some communities that are infected. Zip codes can include communities that have a low infection rate. This is a zip code in Brooklyn. The white areas are inside the zip code, but we have the infection rate by address. You have areas in that zip code that aren't infected. You then have areas outside the zip code that are infected. The zip code as a template is rough justice, but only rough justice. We can refine that. That

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takes some review and analysis. Look at the actual cases that you have again, by address and make sure you're including the relevant zone, not just a zip code, you have to go a little bigger.

EXHIBIT 3-2

Governor Andrew M. Cuomo: (28:34)

You go a little bigger. If you don't have an infection rate in certain communities, don't include those infection rates. The zip codes as a starting place, but we then want to have a team of epidemiologists and demographics people actually look at the maps and where the infection rate is and make sure we're drawing the right circle or the right borders. The controller raised that point, and it's a good point. The health officials agree. When we did New Rochelle, we did a circle. Every other state, every other country does a political subdivision, a county, a city, a town. The zip codes are not the best template to use, and we want to refine that template.

Governor Andrew M. Cuomo: (29:46)

For example, we're closing schools in zip codes, but the school district is different than the zip code. Just because the school is located in that zip code, doesn't mean the students come from that zip code. The catchment area can go the opposite direction from the zip code. Right now, that's the best we have with the New York City data, but we're going to refine this. Non-essential businesses, public spaces. Remember, it's mass gatherings, public spaces, schools should close, but we need to have the right template designed before we can do that with full accuracy. The only action we're taking today on this data, we are using the zip codes to close those schools tomorrow. If we expand the regions and that then includes other schools, we'll then notify people as soon as we know, but for today, or we have other zip code ... That is the zip code data, so it's the schools in those zip codes. As we refine it, we'll let you know.

Governor Andrew M. Cuomo: (31:01)

In total, schools close tomorrow. I'm going to be meeting with the Orthodox community tomorrow. See if they will agree to live and abide by the rules and advocate compliance. If the rabbi advocates compliance, that would be a very positive start. If the communities don't agree with the rules, which is possible, I had some conversations where some religious leaders believe they have herd immunity, which is not true. Some people believe have followed politics and think that masks are ineffective, and this is all a hoax. That's not true, but if they don't agree, then the state will take action. If they do agree, and we have the ability to enforce, then we will go with reduced guidance, 50% rules, primarily outdoors, et cetera.

Governor Andrew M. Cuomo: (32:13)

We're going to do statewide enforcement, state-supervised with local resources, but enforcement has to be enforcement. We need better templates, geographic templates and zip codes. We also need better data on these schools in these hotspot zip codes, more testing, faster testing, so we find out exactly where we are. We need to establish criteria for reopening. When do the areas reopen? What testing data, what percent over what period of time? That has to be established. In closing, New York City is not unique, we have this all across the state. Again, we started with the first hotspot and it's going to continue. It is the way of the world. It's the way this virus moves. It starts in a cluster. It always starts in a cluster wherever, and the question always becomes, can you stop it in the cluster? Can you tamp out the embers before it's a fire out of control? That's always the question. That was the question in Wuhan, China.

Governor Andrew M. Cuomo: (33:41)

Could you get to Wuhan and stamp it out before it spread? That was the question in New Rochelle, and we did stamp it out in New Rochelle, by the way. Every state is

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dealing with it, but it's a statewide issue. It's testing and it's enforcement. That's what we're down to. We're New York tough, smart, disciplined. Just to reiterate, the fall is perilous. We have to stay vigilant. When we talk about 1%, I understand that it is a hyper ambitious goal. You have to remember, we were at 20% infection rate at one time, and I understand that we are surrounded by higher infection rates.

EXHIBIT 3-2

Governor Andrew M. Cuomo: (34:37)

New Jersey is 2.1. They were three last week, okay? Connecticut is 1.3. They were 1.5 and Connecticut has always been a relatively easier situation than New York. I'm envious of my friend, Governor Ned Lamont. Pennsylvania is at 7.9%. We have people coming in and out of here every day from these states. We have people flying in from other countries, so 1% hyper ambitious, unrealistic. Keep the bar high, raise the goal, and we do the best we can, but I'm also realistic. These are the facts that surround us. That's why right now you take out our hotspots. We have one of the lowest infection rates in the United States of America, and that is the gold standard. That's what we want to try to achieve. Even if it is not fully realistic, but New Yorkers have done an amazing job, highest infection rate at one time, lowest in the nation. God bless New Yorkers. I want to make sure as governor, I'm doing everything I can to honor and fulfill their sacrifice and their toughness and their love for each other, and we're doing that. Questions?

Speaker 3: (36:26)

Governor, on the schools specifically, do you have a sense of how many that is total in Brooklyn and Queens? What will the duration be, and why did you think now is not a time to really go after the essential businesses? I mean, do you think you could do that as soon as this week?

Governor Andrew M. Cuomo: (36:40)

Essential businesses are like number four in the spreader priority, right? Schools, mass gatherings, religious institutions, especially in these communities, public spaces, businesses, but the businesses are not mass spreaders. You're talking about small stores. We're not talking about large box stores in these communities, right? We're talking about small stores, the difference whether you had six patrons or eight patrons at any given time, and we want to ... The businesses will be really effected by the lines you draw. We're going to ... I believe we can draw better lines than a zip code. Before we create confusion, on one side of the street, you're open, one side of the street, you're closed. Why? When the zip code line is on this side of the street, not that side of the street.

Governor Andrew M. Cuomo: (37:51)

Let's get the right template, and then we'll take those actions. The big generators, schools, it's children. There are about ... Do you remember the numbers of schools we said were in these areas? Mike said it, how many were tested?

Speaker 4: (38:13)

Approximately 28 or-

Governor Andrew M. Cuomo: (38:15)

28 or 30, they were like 180 or something like that. Many of the schools in these clusters just have not been tested yet. That gives me concern and they are possible transmission places. Then it's going to be the mass gatherings and the religious institutions. Those are the pictures, right? That's what it is. It is those super-spreading situations, and that's what we have to get a handle on .

Speaker 5: (38:42)

Governor, the mayor had proposed-

[crosstalk 00:38:46] are you talking about [inaudible 00:38:48] and other private schools in addition to the public schools?

Governor Andrew M. Cuomo: (38:50)
Yes.

Speaker 5: (38:52)
The mayor had proposed Wednesday to close the schools. You're moving that up one day. What is the reason for that? His argument was, " We're just about through with giving every child that in-person day in the blended model, Wednesday is when it makes sense."

Governor Andrew M. Cuomo: (39:07)
We had a phone call now. Well, Mike Mulgrew recommended it. Speaker recommended it. The controller recommended it. I think what was the determinative fact was there has not been testing in those schools. Some of the schools in the hotspot zip codes have been tested, but some have not. How can you send children into a school in a hotspot zip code, when you know that you don't have any information as to whether or not it's safe?

Speaker 5: (39:44)
Well, you sent them in today. You could've made this decision yesterday on Sunday.

Governor Andrew M. Cuomo: (39:50)
Yeah. Except I wasn't involved, right? I had the conversation today, so I can't move any faster than this.

Speaker 5: (39:56)
Just a quick follow up, you're not closing the schools in Orange and Rocklin, the other hotspots, just the New York City schools, why?

Speaker 5: (40:02)
... Auckland, the other hotspots, just the New York City schools, black.

Governor Andrew M. Cuomo: (40:03)
We may close those schools. We don't have the same level of problem. But I'm going to be speaking to those community leaders also tomorrow, because it's roughly the same situation. If the religious leaders do not agree to abide by these rules then we will close the religious institutions, period. If they agree, I will only go forward if I know we have a state supervised enforcement action. Because I've seen this movie and you've seen this movie, 26 enforcement actions is not enforcement. And I understand it's difficult, but I want a person monitoring the attendance in a temple, in a black church, in a Catholic church. And if the rules are violated then action has to be taken at that moment. And that enforcement has to be in place.

Governor Andrew M. Cuomo: (41:16)
The challenge is I don't have, on the state side, enough people to say, we'll do all the enforcement. That would be easy. And I would do that in a heartbeat. I didn't even have enough people to do the Bars and Restaurants Task Force. We took people from all over. I have environmental inspectors on that task force. But it also proved it worked and both conditions have to be in place if we're going to allow the rigid religious institutions to stay open. If one or two doesn't happen, then we'll close them. I don't have a problem with that.

Zach: (42:04)

Will the NYPD be involved in enforcing social distancing restrictions among individuals or purely through this task force on businesses, schools, religious institutions?

Governor Andrew M. Cuomo: (42:15)

It's individuals but you want to prioritize your impact. Mass gatherings have the most potential to do a super spreader, right? Rose Garden, New Rochelle. So certainly mass gatherings first. If I'm an investigator and I'm out there and I want to make a difference in the world, mass gatherings, mass gatherings at religious institutions, mass gatherings in parks. By the way, mass gatherings of young people at parks in front of NYU, right? College kids coming out 2, 300 to party. Those are all mass gatherings and that's a priority for compliance. School's priority. And then you go down, businesses and then individuals.

Zach: (43:22)

So would they be authorized then to ticket people who are walking on the street without masks, for example?

Governor Andrew M. Cuomo: (43:28)

Oh, they are now. Zach...

Zach: (43:31)

But is it [crosstalk 00:43:31] for them to enforce it in that way? You say it's not the highest priority, but-

Governor Andrew M. Cuomo: (43:34)

Zach, it is now. You walk down the street without a mask. You're within six feet of a person, you are in violation of the law.

Zach: (43:43)

But will they enforce it through this new task?

Governor Andrew M. Cuomo: (43:46)

Yes. And they should be enforcing it now. That question should not be a question. The answer is of course. NYPD should be enforcing it now. New York City Department of Health should be enforcing it now. You should have no question in your mind that if you walk down the street and you're not wearing a mask and a police officer sees you, you're going to be ticketed.

Louis: (44:15)

Governor, doesn't Orange County and Rockland County have higher infection rates than-

Governor Andrew M. Cuomo: (44:20)

It depends. It depends on where.

Louis: (44:21)

If they have high infection rates why not close the schools there as well?

Governor Andrew M. Cuomo: (44:26)

Well, that's what we're going to be talking about. And there's some disparity in what the infection rates are and we want to drill down on the data. But it's the same basic conversation we're having here. Excuse me one second.

Louis: (44:48)

Do you believe you have the legal authority to close down religious institutions

Governor Andrew M. Cuomo: (44:52)

We believe we have the legal authority. We will assert the legal authority. We have been sued by the religious organizations. Our legal authority was upheld. I don't like getting into a litigious situation with the religious community. I have enough questions that I have to answer when I get to the Pearly Gates. I don't want to also be questioned as to why I was sued by the Catholic church or the Jewish community for closing temples. So I have enough issues on my plate. But yes, we believe we have the legal authority. Did you want to say something?

Melissa DeRosa: (45:38)

No. I would just say Louis, you have to remember back. So when we did New York on pause back on March 20th, we banned all mass gatherings, more than 10 people, and we closed all non-essential businesses. It was the mass gathering rule that was upheld. And so technically during that period of time, individuals could walk into a religious institution and pray, but you couldn't have more than 10 people in a religious institution regardless of occupancy at any given time. What changed was when we began to do the phased reopening and we started to say that businesses could have 50% capacity, we said houses of worship could have 33% capacity.

Melissa DeRosa: (46:15)

The lawsuit was over whether or not it was fair that in a religious institution, you were taking a different standard than any other business. And the court at the time went with the businesses. But what the governor's describing as if we're moving into a situation where we're indiscriminately saying a mass gathering number in a certain region based on infection rate would be lowered, let's call it 10 people. I'm not saying that's what it's going to be. But just for example sake, 10 people, then you're not saying a religious institution is being treated differently than any other institution because the law would be applied evenly throughout. Does that make sense?

Governor Andrew M. Cuomo: (46:52)

Can you put up the picture of the two congregations again?

Melissa DeRosa: (46:58)

Sorry Louis.

Governor Andrew M. Cuomo: (46:58)

Wait Louis. Isn't Louis [crosstalk 00:47:00]

Louis: (47:00)

On the non-essential businesses, could you clarify your stance or do you mean against shutting them down and closing them or you mean against the mayor's proposal? What exactly are you waiting for on the non-essential businesses?

Governor Andrew M. Cuomo: (47:14)

On the non-essential businesses, also on the schools, we all agree we need to do a better template than a zip code. A zip code is not the best definition of the applicable zone, right? You have information beyond the zip code level. You have addresses, you have census track data. So if you have to draw a... I use the word containment zone. In New Rochelle I got into all sorts of trouble. If you have to circumscribe an area, make sure you have the right boundaries. And before you make a determination about essential businesses or not, make sure you have the right geographic area because you will be closing businesses.

Governor Andrew M. Cuomo: (48:20)

And if you don't do it right, it'll just be arbitrary and capricious and then they'll bring you into court. And they'll say, it's just because I happened to be in the zip code and one side of the street, the deli's open on the other side of the street, the delis closed. What sense does that make? All you're doing is bringing the people across the street. So what is the best area? Once we have that done, then I don't have a problem with closing the essential businesses. Then you determine for how long by what data, et cetera. But even all of this comes back to do you have the enforcement capacity to enforce any of this? All these great rules, but do you have the enforcement capacity?

Governor Andrew M. Cuomo: (49:18)

So I know we're giving you a lot. First action, close the schools tomorrow, use the zip codes because that's all you have for now. If you come up with a different template, I'm sorry, when you come up with a different template, if it includes additional schools, include additional schools. Meet with the Orthodox community, see if they will agree to live by the rules. If they do, then we need to put in together a statewide enforcement task force and the local governments have to give me enough personnel to make it work. And that will be statewide including New York City. Then redraw the geographic boundaries. See what's in and see what's out. Then put that out there. And that's all.

Speaker 7: (50:17)

So governor, why do you think Mayor de Blasio has not been able to pull the trigger on enforcing these things?

Governor Andrew M. Cuomo: (50:25)

You'd have to ask the mayor.

Speaker 7: (50:26)

But I'm asking you.

Governor Andrew M. Cuomo: (50:28)

I know you are asking me and that's why I am saying you have to ask the mayor. Look, I think it's not just the New York City issue, it's local governments plus or minus. Some are very aggressive by the way and do a great job. But some have been very reluctant. And that's why I had to do the Bar and Restaurants Task Force. I mean, how many times did you sit here and I saw the skepticism in your face when you would say, "Here he goes again with his bar and restaurant rant." But yes. How many weeks did we say, look at the crowds, look at the pictures, Look at all the young people in front of the bar, do something, they did nothing? Part of it is the environment, the NYPD tension with the community. Do they want to engage in this kind of activity? Then you go to... the mayor's been using the sheriff. The sheriff's office is 150 people. What do you think 150 people are going to do? I mean, it's just not enough. And then you have the political overlay.

Governor Andrew M. Cuomo: (51:48)

You're dealing with government saying to religions, you shouldn't have more than X people in your church or your mosque or your temple. That's an politically uncomfortable situation. I have to say to the Orthodox community tomorrow, if you're not willing to live with these rules, then I'm going to close the synagogues. I have had a 30 year relationship with the Orthodox community. It goes back to my father. I have a very close personal relationship with them. This is the last thing I want to do. Forget the politics, I don't care about that anymore. Personally, I don't want to have this conversation. It's a difficult conversation. And you're right on the line of government intrusion on religion. So it's hard. I didn't want to close down

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1000 bars, put people out of work. It's hard, but I know in New York City's case, 26
enforcement actions, that with this rampant ongoing violation. You think 26
enforcement actions was going to stop it? No.

EXHIBIT 3-2

Speaker 8: (53:26)

The state is going to oversee the enforcement with local personnel. What does that mean and why is it going to be different than what you just described?

Governor Andrew M. Cuomo: (53:43)

What we did with the bars and the restaurants is I used state personnel from all across the state and it was run by the state police and the SLA. Here we'll have a task force put together, run by the Department of Health and the state police. And local governments will need to assign people to that task force who are supervised by that task force, deputized by that task force to give out state summonses as directed by the supervisors of that task force, right? So you can be a Nassau County Department of Health official. You are assigned to the task force. I'm the state person running the task force. I say, you're going to be stationed in front of St. Peter's Church. The capacity is 150. You stand at the front door. When they go over 75, you close the door and call me. And if you have any problem, the state police officer is down the block and he'll come help you. That's your job. You are from the Department of Health, Nassau County, but you were assigned to a state task force.

Speaker 8: (55:12)

So the state is telling the local officials where to be?

Governor Andrew M. Cuomo: (55:17)

Say it one more time. I'm sorry.

Speaker 8: (55:18)

The state is telling the local officials where to be?

Governor Andrew M. Cuomo: (55:24)

No. The state is determining where to be primarily based on the hotspot clusters, right? Here in New York City, we knew where the problems were. We knew it. So we're all looking at the same areas because we all have the same data on the zip codes in the communities. We just haven't been aggressive enough on the enforcement. And I said from day one, blame me. I'm willing to do the enforcement. I have a different political perspective. I think it's kind and right and responsible as opposed to harsh and I'm going to make enemies. And the state taskforce is going to do it, but I don't have enough people. I don't have enough personnel. So I need them to assign me personnel.

Speaker 8: (56:19)

I'm just wondering, if the locals didn't do it before, what makes you think you're going to do it now?

Governor Andrew M. Cuomo: (56:26)

Oh, because they're not doing it in their name. It's my name that they're doing it in. And that makes all the difference.

Speaker 8: (56:34)

That's going to make the difference.

Governor Andrew M. Cuomo: (56:36)

Oh yes, because there's no political recriminations to them. I'm going to say to the Orthodox community tomorrow, if you don't agree, then we will have to close down

your religious institutions. I'm going to have to say that to the black ministers. That's not a comfortable conversation.

Melissa DeRosa: (57:05)

Just to punctuate the governor's point. So just so we're all clear. Section 20 of the executive law regarding emergency response delegates the authority on enforcement in an emergency to the locality. So let's just use that as the baseline. To go on the governor's point on the SLA, what was happening a lot over the summer was everyone was seeing on social media reports of bars and restaurants and drive-in concerts, whatever it may be, in clear violation of the rules that we put into place in order to keep the virus contained in New York. We would reach out to the local health departments, local governments, say, "What are you doing about this?" And politically, it was very difficult for them. Oh my friend's cousin owns that bar. This person I know owns that restaurant. It was just this one time. And so the governor put together the SLA Task Force. The hope being from the SLA Task Force was that we would go after individual bad actors before having to blanket punish an entire industry.

Melissa DeRosa: (57:55)

So rather than in that moment in July and August say we're closing all bars and restaurants, indoor, outdoor, everything, we tried to surgically go after the individual bad actors. And it was incredibly effective. To the governor's point, you now see dramatic change in compliance. At the same time, my phone was ringing off the hook, Robert's phone was ringing off the hook from local politicians, state legislators, assembly and senators in these areas saying, you closed down my friend's brother's bar, you're being gratuitous. It was just one violation. You're going after and finding these people. And we said, "Yeah. We are because we lived through mass graves on Hart Island and we lived through sirens in this city and we lived through death and we're not doing it again. So we will take it over." And when they say, "Well, we're upset." You can say, well, the governor's office is terrible. They're going to continue doing it and they're going to continue doing it no matter what we say so you better just follow the rules. And we have seen a dramatic change in compliance as a result. And that's what we're trying to accomplish.

Governor Andrew M. Cuomo: (58:50)

Let me do it another way for you. Just turn the picture a little bit so I don't have every local official calling me this afternoon. First, many local governments have done this very well. Second, this is a very different situation because this is a state law that has been delegated to them to enforce. State law, which is a new state law, delegated to them to enforce. They don't close down religious institutions. It's not what they do. They don't close down bars. They don't close down restaurants. They don't close down drive-in concerts. They don't tell people to wear masks. They don't tell people you can't gather 100 people in a park. They have never done this before. It's not what they do. COVID, we passed these new state laws you are-

Governor Andrew M. Cuomo: (01:00:03)

... COVID. We passed these new state laws. You are delegated to enforce them. It's your job. We've never done this before. It's not what we do. My local police don't close down bars, and we don't tell people to wear masks. I know you've never done it before, but you have to do it. We don't go into a church and say, "You're violating the 50% rule. Close the church." We don't do that. I know, but you have to do it now. That's for the bureaucracy to accept that and pivot and do it, and these are all difficult laws. Think about it. You're a local politician. Pick one. Close temples, close mosques, close schools, close Catholic churches. No, thank you.

Speaker 3: (01:00:56)

Governor, any [inaudible 01:00:56] how long a duration would be for the schools? For example, would you want testing in the schools to indicate when they could reopen? Or is it the community at large, meaning within the zip code?

Governor Andrew M. Cuomo: (01:01:06)

It may be both. We don't know. And that's what we want to establish. Dr. Zucker's going to work with the city and some other outside experts to make that determination.

Speaker 9: (01:01:20)

[inaudible 01:01:20] timeline on the boundaries? We know of two concerts that are planned in Brooklyn this week in the ultra-orthodox community. Are you going to have to close down larger venues this week?

Governor Andrew M. Cuomo: (01:01:30)

Well, first of all, it shouldn't be happening anyway. Period. It violates the existing law. You have to enforce the law. State-wide, I've gone through this in Suffolk. They had a music concert, fundraiser in one of the towns in the Hamptons. You can't have a concert mass gathering today. You can't. I don't care what zone you're in. You can't do it.

Speaker 5: (01:02:14)

[inaudible 01:02:14] Mayor DeBlasio yesterday announced a plan, asked for your approval, set of presser for 12:00 today. You all scheduled one for 10:30, then 11:45. I understand you had to meet with him first, or [inaudible 01:02:28] over the phone, discuss it, your team and his team, but I wonder if you could explain to the public why you couldn't have a joint announcement, a joint press conference. We in the world could ask you all these questions together and have a united front. I think a lot of people have a lot of frustration about that division. Can you explain it to them?

Governor Andrew M. Cuomo: (01:02:49)

No. You have a federal government. You have a state government. You have a city government. You have county governments. This is a situation where by law is governed by state law. The mayor said that yesterday. The mayor said, "I have a plan. I'm going to propose it to the state." Okay. Now, I have to review it. I have to see what the speaker says. I have to see what the Hasidic community says. I have to see what the police say. I have to see what the controller thinks. I have to see what my health officials think. It's a complex issue. Right?

Governor Andrew M. Cuomo: (01:03:29)

And he did announce it, so people now want to know. It's caused a lot of aggravation. My phone has been ringing off the hook. Has said, "The community is very concerned. Parents are very concerned. What's happening? What do you know?" So, I want people to know as soon as possible, especially your schools are closed tomorrow, so you can figure out what to do tomorrow. And this is the most recent update. And I spoke to him about it. I spoke to him, Mulgrew, the controller, the speaker, and this is what we agreed we would do. This is the plan of action. You are hearing it as soon as I could get it to you.

Speaker 10: (01:04:17)

Governor, what kind of testing going forward do you want to see in schools? You said there's not enough going on in the city. At least the city schools were doing monthly random testing, a certain percentage. Do you want to see something more than that? And then, how about the issue [inaudible 01:04:34] religious schools in these areas, do you want to see more specific testing?

I would say two things. I would say three things. First, I probably know more testing than any non-testing expert in the state, and I know more about testing than I ever wanted to know. And we do more testing than any state in the United States. But I know what I don't know, and I want to get the input. We have the best global experts that we work with. I want to hear what they think. But number two, if you know you have a hotspot zip code, test that school. Test that school. If you're going to send a child into a school that you know is in a hotspot, in my opinion, you have to test that school before you would ever send a child into a zone that you already know is a hotspot.

Governor Andrew M. Cuomo: (01:05:40)

Second, random monthly. What is the interval between the tests? In other words, does that mean you're going to random... You have 30 days, 31 days, let's say, is it all in the first week, maybe? All in the last week? Is it spaced out every week? What are the intervals between the test? Because this goes like this, right? "Well, we did a test on day one, but then we didn't test again until day 10, and lo and behold, from day one to day 10, it went up four points." No, I think random is fine. Monthly, I don't know what that means, monthly. Does that mean you could just do it once a month? I understand daily. I understand weekly. I don't really understand random monthly because it sounds like it's a month. If you're saying there could possibly be a month between tests, but that doesn't work for me. I can tell you I would not accept that plan for my school.

Speaker 10: (01:07:03)

Will there be an impact to indoor and outdoor dining in these cluster areas?

Governor Andrew M. Cuomo: (01:07:06)

There could be. There could be. We're reviewing it.

Speaker 10: (01:07:10)

Do you think it will be this week?

Governor Andrew M. Cuomo: (01:07:12)

Yeah. We need to come up with the template because I don't want to confuse businesses. You're in, you're out, you're in. There's been enough of that. When government comes up with a plan, stick to the plan, don't change the plan. It suggests to people confusion and incompetence. So, what's the right geographic template? What's an essential business now? What's the indoor dining rule now? What's the mass gathering rule now? And then, how do you enforce it?

Speaker 8: (01:07:48)

You're the governor of the state, the mayor's the mayor of the city. That doesn't preclude you from speaking together. Does it? Why can't the two of you, as [inaudible 01:07:59] suggest, come together, one message from one place instead of these different voices from different places?

Governor Andrew M. Cuomo: (01:08:10)

Look, I've been with the mayor many times. He has a schedule. I have a schedule. I wanted to get you the information quickly. I didn't put out this plan. He did. So, if anything, you'd want to ask him why didn't you propose a plan to the state and work it out first and then just announce a final plan, as opposed to announcing a proposed plan that the state then had to react to. I don't know. Why do you sit in that seat? I don't know. People have their own styles and their own way of doing things, but that's all it is.

Speaker 5: (01:08:57)

Governor, speaking of sitting in seats, but you all are a few feet away indoors and not wearing a mask. I wonder if you could speak to the mask wearing culture in this room, in your office, and what it says, as you talk about the need for enforcing laws and being consistent, what it's telling to those communities who might, I feel it's probably pretty safe to say, are tweeting even as we speak about your presence together without masks.

Governor Andrew M. Cuomo: (01:09:28)

We have sat in these seats six feet apart, socially distanced, without masks since COVID started. The rule is six feet apart, and that's what we do. This state has been a model of mask wearing. We were the first state to mandate masks in the United States of America. We have done more advertising for masks than any state in the nation. We've done national public service announcements on mask wearing. I've been the most outspoken governor against the president for not mask wearing. I've been the most outspoken governor against the CDC and NIH and the vice president for not condemning the president's failure to wear masks. I visited cities all across the country and advocated mask wearing.

Governor Andrew M. Cuomo: (01:10:25)

I said that this nation and its health officials made a terrible mistake by telling this country early on not to wear masks. The surgeon general tweeted they are unnecessary. Whenever I am in a situation where I should wear a mask, I do wear a mask. Don't confuse people by putting forth your own mask wearing rules. Do that with your family. If you are six feet apart, you do not need to wear a mask, let alone these people are all tested on basically a daily basis.

Zach: (01:11:07)

What about aerosols, though? Isn't there new evidence that the virus spreads through the air?

Governor Andrew M. Cuomo: (01:11:11)

The rule is six feet social distancing. Do you want to change the rule?

Zach: (01:11:19)

Who's determining this rule? You've said that the CDC can't be trusted for public health guidance, but there is lots of new research that shows the virus can spread through [crosstalk 01:11:28].

Governor Andrew M. Cuomo: (01:11:28)

The CDC's rule is six feet, the state law is six feet. If there's new data, and we should come up with a new law, then the CDC could do that. That Department of Health could do that. But the law is six feet. That is the law. The law is a mask. The law is not a helmet. If new data comes out and says, "You should wear a helmet," and then we'll have a helmet law. The law says a mask, not ear muffs because we don't believe the virus goes in your ear. Maybe somebody will do an article saying it can invade your ear and then we'll have a new mask with ear muffs. Last question.

Speaker 11: (01:12:13)

What's your level of concern that the outbreak is going to continue to increase? What's to stop, if we do close out more indoor dining, what's to stop people that live in hotspots from going down the block, or catching the train and flocking outside-

Governor Andrew M. Cuomo: (01:12:27)

Nothing. Nothing. Nothing. Which is why the health officials are very worried about how you draw the lines. Because what the health officials will tell you is if you don't

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draw the lines correctly, you will be taking the infected people in the zip code and sending them to the next community to have outdoor dining because their outdoor dining's closed and you can actually be spreading the virus. That's why the geographic template is very important. This has never been done before. Every other government closes subdivisions. The entire city, the entire county. Brooklyn closes.

EXHIBIT 3-2

Governor Andrew M. Cuomo: (01:13:25)

Now, theoretically, you want to drive into Manhattan, you can drive into Manhattan, but you have to drive into Manhattan or take a train into Manhattan. You want to go into Queens to eat, you can go to Queens, but you have to go to Queens. You get this small area, you just walk across the street. You walk two blocks, and we were trying to contain you. That's why New Rochelle, what we did was a one mile circle, and it had a margin around it. So, in other words, the circle was wide enough where there was a buffer between the infected community and the non-affected community. But yeah, that is a very real concern, and there's a very real question of, if you do this wrong, are you just spreading, inadvertently, the virus? So, how you draw those lines is very important.

Speaker 11: (01:14:40)

What would enforcement look like, then, in that situation? Is that going to be [inaudible 00:01:14:44]?

Governor Andrew M. Cuomo: (01:14:44)

No, the enforcement winds up the same. You draw the lines, and then the enforcement is the enforcement. And the enforcement is indoor dining is only supposed to be 25%. You have 30%, you get a ticket. It's supposed to be outdoor dining... Whatever the rules are, they enforce in that template, but you're right, make sure that template is right.

Louis: (01:15:07)

Governor, so you're saying there aren't enough data from some schools [inaudible 00:15:10], some schools aren't testing enough or don't have the adequate capacity, should those schools have been allowed to reopen in the first place? [crosstalk 01:15:18].

Governor Andrew M. Cuomo: (01:15:23)

We didn't say inadequate data. There's no data. These schools opened and have done no testing. That was the city plan that the New York City parents signed off on, and the New York City teacher's union signed off on. They had this random monthly testing plan, but they did not have a provision that said if the higher infection rate zip codes will be tested first. So, I think this has been educational for them, and that's something you want to look at. My point is, you have no data on some of these schools in these hotspot zip codes, would you send your child to school tomorrow, to a school that you knew had no data on infection rate but didn't know it was a hotspot zip code, would you send your child?

Louis: (01:16:44)

[inaudible 01:16:45].

Speaker 12: (01:16:44)

But good answer. Right? But you're [inaudible 01:16:49].

Governor Andrew M. Cuomo: (01:16:49)

I wouldn't, so that's how I do my decision. Sorry?

Louis: (01:16:54)

[inaudible 00:16:54].

Governor Andrew M. Cuomo: (01:16:55)

No. State put out guidance. And then the 700 school districts came up with a plan pursuant to that guidance. I said 876 times, put the plan on the web, Let the teachers union look at it, let teachers look at it, let parents look at it, let the reporters read the plan and report on the plan, and if a savvy reporter sees an obvious hole in the plan, I'm sure they will write about it. Capisce? Thank you, guys.

Speaker 13: (01:17:37)

[inaudible 01:17:37] right now in Brooklyn, I'm told this crowd. Who should be enforcing that?

Governor Andrew M. Cuomo: (01:17:47)

The city of New York.

Speaker 13: (01:17:48)

NYPD?

Governor Andrew M. Cuomo: (01:17:48)

The NYPD, the New York City Department of Health, today, is in charge of enforcing the laws. That's what I'm saying. We have these laws. Everybody knows the laws. They're not being enforced. They have to be enforced. "Well, we have tension with the police. We have tension over here. I don't want to..." I get it, but if you don't enforce the law, the virus will spread. So, your question is relevant. There's an ongoing activity that violates the law. How is this possible? That's why I'm saying, I want state supervised enforcement going forward in these clusters because I am unhappy, statewide, with the enforcement that's been going on. If you had done the enforcement, these things don't happen. You saw the pictures. How did the virus get high? That's how the virus got high. There's no mystery here, right? Thank you, guys.



SEPTEMBER 30, 2020 Albany, NY

Governor Cuomo Updates New Yorkers on State's Progress During COVID-19 Pandemic

Statewide Positivity Excluding Hotspot ZIP Codes is 0.82 Percent; 1.02 Percent with Hotspot ZIP Codes Included

DFS Extends Emergency Regulation Requiring Insurance Companies to Waive Out-Of-Pocket Costs for In-Network Mental Health Services for Frontline Essential Workers During COVID-19 Until November 27

9 COVID-19 Deaths in New York State Yesterday

SLA and State Police Task Force Visits 1,114 Establishments; Observes 4 Establishments Not in Compliance

Confirms 1,000 Additional Coronavirus Cases in New York State - Bringing Statewide Total to 458,649; New Cases in 49 Counties

Governor Andrew M. Cuomo today updated New Yorkers on the state's progress during the ongoing COVID-19 pandemic. The number of new cases, percentage of tests that were positive and many other helpful data points are always available at forward.ny.gov.

"We're dealing with the cluster situation. We've had clusters in the past stemming from factories, churches, bars and other locations. Remember we started with New Rochelle, the first hotspot in the United States, which stemmed from someone who attended a religious

gathering and then a wedding. And that was the first super spreader event, so we're quite familiar with this, and when there's a cluster, we are very aggressive on it and we're oversampling in the clusters," **Governor Cuomo said.** "We've deployed rapid testing machines. So you have two infection rates that you want to pay attention to: the statewide numbers and then the cluster numbers. All of this is a stark reminder that we need to stay smart and vigilant - wear a mask, socially distance, follow the public health guidance - because this thing is not over."

New York State continues to track clusters with a particular focus on the top 20 ZIP codes in which there have been hotspots. Within the 20 hotspot ZIP codes, the average rate of positive tests is 5.5 percent. The rate of positive tests for the remainder of New York State, not counting the top 20 ZIP codes, is 0.82 percent. The rate of positive tests for all of New York State, including the top 20 ZIP codes, is 1.02 percent. These 20 ZIP codes contained 23 percent of all positive cases in New York State yesterday, but represent only 6 percent of the state's population.

The Governor noted that 20 hotspot ZIP codes reported an average 5.5 percent positivity rate. Areas that had high positivity rates will be subject of focused testing efforts including access to rapid testing machines. These ZIP codes include:

REGION	COUNTY	ZIP	% POSITIVE	TESTS	POSITIVES
Mid-Hudson	Rockland	10952	17%	200	34
Mid-Hudson	Rockland	10977	14%	350	50
NYC	Kings	11230	8%	342	29

NYC	Kings	11204	6%	223	13
NYC	Kings	11219	5%	260	12
NYC	Kings	11223	4%	253	11
NYC	Kings	11229	4%	286	11
NYC	Kings	11210	4%	182	7
NYC	Kings	11234	4%	279	10
NYC	Bronx	10465	4%	140	5
NYC	New York	10040	4%	198	7
Mid-Hudson	Orange	10950	3%	86	3
NYC	Queens	11374	3%	151	5
NYC	Richmond	10306	3%	152	5

NYC	Richmond	10304	3%	185	6
Long Island	Suffolk	11717	3%	125	4
Long Island	Nassau	11580	3%	138	4
NYC	Queens	11691	3%	255	7
Long Island	Suffolk	11746	3%	183	5
NYC	Bronx	10462	3%	266	7

The Governor also announced the New York State Department of Financial Services will extend an emergency regulation requiring New York health insurers to waive out-of-pocket costs, including cost-sharing, deductibles, copayments and coinsurance, for in-network mental health services for New York's frontline essential workers during COVID-19 until November 27. The extension of this emergency regulation helps to ensure that cost-sharing is not a barrier to in-network mental health services during COVID-19 for health care workers, first responders, transit workers, food services workers, retail workers at essential businesses, and other frontline essential employees, who are required to directly interact with the public while working during this continuing public health emergency. Governor Cuomo first announced the State's directive requiring New York insurers to waive out-of-pocket costs for in-network mental health services for frontline essential workers during COVID-19 in May.

Yesterday, the State Liquor Authority and State Police Task Force visited 1,114

establishments in New York City and Long Island and observed 4 establishments that were not in compliance with state requirements. A county breakdown of yesterday's observed violations is below:

- Brooklyn - 1
- Nassau - 3

Today's data is summarized briefly below:

- Patient Hospitalization - 605 (+34)
- Patients Newly Admitted - 100
- Hospital Counties - 38
- Number ICU - 144 (-3)
- Number ICU with Intubation - 67 (+6)
- Total Discharges - 76,754 (+63)
- Deaths - 9
- Total Deaths - 25,479

Of the 97,960 test results reported to New York State yesterday, 1,000, or 1.02 percent, were positive. Each region's percentage of positive test results reported over the last three days is as follows:

REGION	SUNDAY	MONDAY	TUESDAY
Capital Region	0.9%	0.9%	0.5%
Central New York	0.8%	1.7%	0.4%
Finger Lakes	0.6%	0.9%	0.3%

Long Island	1.2%	1.2%	1.3%
Mid-Hudson	3.1%	2.0%	2.4%
Mohawk Valley	1.2%	0.8%	0.3%
New York City	1.6%	1.3%	1.2%
North Country	0.4%	0.2%	0.2%
Southern Tier	3.6%	1.9%	0.6%
Western New York	0.9%	1.3%	1.1%

Each New York City borough's percentage of positive test results reported over the last three days is as follows:

BOROUGH	SUNDAY	MONDAY	TUESDAY
Bronx	1.0%	1.0%	1.1%
Brooklyn	2.6%	1.7%	1.8%

Manhattan	0.8%	0.7%	0.6%
Queens	1.6%	1.5%	1.2%
Staten Island	1.3%	1.6%	2.2%

The Governor also confirmed 1,000 additional cases of novel coronavirus, bringing the statewide total to 458,649 confirmed cases in New York State. Of the 458,649 total individuals who tested positive for the virus, the geographic breakdown is as follows:

County	Total Positive	New Positive
Albany	3,120	4
Allegany	114	6
Broome	1,673	31
Cattaraugus	276	5
Cayuga	220	1

Chautauqua	590	5
Chemung	510	18
Chenango	253	2
Clinton	162	0
Columbia	595	3
Cortland	184	3
Delaware	136	0
Dutchess	5,137	7
Erie	11,500	55
Essex	169	1
Franklin	66	0

Fulton	339	0
Genesee	330	3
Greene	325	2
Hamilton	15	0
Herkimer	338	1
Jefferson	172	2
Lewis	50	0
Livingston	208	1
Madison	497	0
Monroe	6,085	11
Montgomery	235	1

Nassau	46,857	66
Niagara	1,788	5
NYC	244,041	446
Oneida	2,436	4
Onondaga	4,424	15
Ontario	475	0
Orange	12,143	21
Orleans	336	1
Oswego	503	4
Otsego	341	1
Putnam	1,617	5

Rensselaer	919	3
Rockland	15,452	110
Saratoga	1,066	6
Schenectady	1,410	5
Schoharie	85	0
Schuyler	43	0
Seneca	107	0
St. Lawrence	327	2
Steuben	453	3
Suffolk	46,517	53
Sullivan	1,604	4

Tioga	249	7
Tompkins	421	4
Ulster	2,280	8
Warren	391	5
Washington	302	1
Wayne	323	2
Westchester	38,239	57
Wyoming	137	0
Yates	64	0

Yesterday, there were 9 deaths due to COVID-19 in New York State, bringing the total to 25,479. A geographic breakdown is as follows, by county of residence:

Deaths by County of Residence

EXHIBIT 3-3

County	New Deaths
Allegany	2
Chemung	1
Essex	1
Kings	2
Queens	2
Suffolk	1

Contact the Governor's Press Office



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METRO EXCLUSIVE

Cuomo pulls back pledge of less-severe COVID-19 restrictions to Jewish leaders

By Julia Marsh, Bernadette Hogan and Aaron Feis

October 7, 2020 | 8:03pm



Matthew McDermott

Gov. Andrew Cuomo told Jewish religious leaders that limiting houses of worship to 50 percent capacity was sufficient to beat back the coronavirus surge — only to **announce tighter restrictions** just hours later.

The governor spoke around 9 a.m. Tuesday with honchos from Orthodox Jewish communities across New York, seeking their commitment to help contain new outbreaks in Brooklyn and Queens, as well as a handful of upstate communities.

"I'm asking you, out of friendship, for your help," Cuomo said, according to a transcript of the phone call obtained by The Post. "It's in your community's best interest on many levels. It's in their health interest. It's [in] their relationship with the surrounding communities interest. And I know if you inform your community, they will listen to you."


Many sites of the latest outbreaks are in communities with sizable Orthodox populations.

Cuomo told the leaders that a strict limit on the number of people in synagogues and other houses of worship was necessary, but indicated that it would be set at 50 percent.

SEE ALSO



Protesting Orthodox Jews must understand they're in a 'community of others': Birx



“We have to follow the 50 percent in the synagogues ... otherwise, I’m telling you, we’re gonna have to wind up going back to close down,” he said, according to the transcript. “We’re going to enforce the rules but the 50 percent is OK.”

Cuomo seemed to paint himself as backed into a corner by local leaders, such as New York City Mayor Bill de Blasio — even though he was the one who on Monday raised the possibility of **restrictions on houses of worship** after a **weekend proposal by de Blasio** made no mention of the institutions.

Hizzoner, by contrast, has been **accused by Cuomo** of taking a kid-glove approach on religious Jewish communities, including **non-existent enforcement on mask usage**.

“Some of the local governments are going to start jumping out there sooner rather than later, saying, ‘Close down because there’s no compliance,’” said Cuomo. “The next step in New York City will be for them to say, ‘Close down the synagogues,’ as opposed to the 50 percent.

“If I can’t demonstrate that we can comply, they’re going to start advocating for [a] total close-down.”

SEE ALSO



COVID-19 unrest raises questions over NYPD's handling of Hasidic enclaves

But in a 3 p.m. Tuesday press briefing, Cuomo unveiled a new, color-coded system of restrictions set to take effect no later than Friday — including capacity limits on religious institutions well below 50 percent.

In “intense cluster” zones, houses of worship are restricted to 25-percent capacity or a maximum of 10 people.

In less severe orange-colored zones, the limits are 33-percent capacity or up to 25 congregants.

Only in yellow zones, the least restricted of the three tiers, is the cap on houses of worship set at 50 percent.

A Cuomo administration official said in a statement that at the time the governor told the religious leaders that 50 percent capacity was acceptable, they were still in talks with medical professionals who ultimately called for tighter restrictions.

“We were still in discussions with the epidemiologists at the time and they made clear that preventing large social gatherings is the key to breaking up these clusters,” the statement read.

The Hasidic Jewish community in Borough Park, Brooklyn did not take kindly to the blindside announcement, launching a **fiery and largely-unmasked protest** late Tuesday into early Wednesday that saw two **photographers beaten** — and no NYPD intervention.

FILED UNDER **ANDREW CUOMO, CORONAVIRUS, CORONAVIRUS IN NY, HASIDIC JUDAISM, ORTHODOX JUDAISM, RELIGION, 10/7/20**

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COMMUNITY CORONAVIRUS

Jewish Leaders 'Blindsided' by Cuomo's Shul Restrictions

By S. Marcus and R. Borchardt |

Wednesday, October 7, 2020 at 4:42 am | י"ט תשרי תשפ"א Updated Wednesday, October 7, 2020 at 7:06 pm

Type of Activity	RED	ORANGE	YELLOW
Worship	25% capacity 10 people maximum	33% capacity 25 people maximum	50% capacity
Mass Gathering	Prohibited	10 people maximum, indoor and outdoor	25 people maximum, indoors and outdoors
Businesses	Only essential businesses open	Closing high-risk non-essential business (gyms, personal care, etc.)	Open
Dining	Takeout only	Outdoor dining only, 4 person maximum per table	Indoor and outdoor dining, 4 person maximum per table
Schools	CLOSED Remote-only		Open Mandatory weekly testing of students and teachers/staff for in-person settings. DOH will set percent by Friday.

WEAR A MASK. GET TESTED. SAVE LIVES.


New York Gov. Andrew Cuomo announcing new restrictions Tuesday in COVID-19 hotspots in Brooklyn and Queens.

NEW YORK - Jewish leaders said they were blindsided by New York Governor Andrew Cuomo's announcement on Tuesday afternoon that houses of worship in the areas with coronavirus outbreaks would be restricted, with some allowed as few as ten worshipers. This came just hours after the Governor convened a conference call with community leaders, asking them for help in reducing occupancy in shuls to 50%.

During the call with Jewish leaders Tuesday morning, Cuomo indicated that if community leaders enforced the 50% guideline, shuls would not be closed. He said, "The current rule is no more than 50%. In any indoor gathering 50% of capacity...in a synagogue in any venue, any private venue. It's 50% of capacity. That's the current law. We have to follow that law. If we don't follow that law then the infection rate gets worse. Then we're gonna have to go back to close down. And nobody wants to do that. But I need your help in getting the rate down, and the rate will come down. If we follow the rules on the mask and the social distancing and the 50%."

Later that day, the governor announced that houses of worship in coronavirus 'hotspots' could allow a maximum of ten people at services, and non-essential businesses in those areas would be closed, in addition to his Monday announcements that schools in hotspots would be closed.

A participant on the call who spoke to *Hamodia* on the condition of anonymity expressed frustration with how it transpired, and stressed that Cuomo never indicated he was prepared to take such extreme measures when it came to shuls. "The governor stabbed us in the back by announcing this unprecedented lockdown, and he has the audacity to say that he discussed it with Orthodox leaders and they were very receptive. This is just unbelievable. This is something that our community will never forget. We were looking forward to the opportunity to finally speak directly to the governor, as we were promised."

The participant added that the only questions Cuomo answered were several "softballs," which he later found out were pre-approved by the governor's office, which added to the overall feeling of mistrust. 

The participant attempted to address Cuomo by pressing the button he was told to use to put a question forward, but it never went through.

"I along with my fellow community activists and leaders on the call were shocked to hear the governor ask his operator: 'are there any other questions' and then we hear operator respond 'there are no other questions sir,' and the call was promptly ended." The participant later found out the questions had to be pre-approved and believes his attempt to raise a question was deliberately ignored.

"Had the governor taken my question," the participant said, "he would have heard how detached from the reality on the ground he is. He would have perhaps heard how his draconian proposals are unfair to people who already suffered through the virus. In fact, we were ready to propose that over the holidays only people who have tested positive for antibodies should participate in shul gatherings. Instead the governor pretended that he was ready to listen to us...he lied to us. After telling us that he'll limit shul participation to 50% capacity, he placed a limit of 10 people. We all feel used, targeted and enraged."

Jewish organizations and community leaders have condemned what they deem to be Cuomo's duplicitous way of going about the situation. Many expressed frustration they were not given a warning during Cuomo's conference call.

Community activist Chaskel Bennett was not on the call, but spoke to those who were. He said to *Hamodia*, "What Governor Cuomo did today was blindside community leaders who had already been working hard to tamp down on rising coronavirus numbers." Bennett noted, "there was absolutely no discussion of reducing houses of worship to ten, and communal leaders feel completely betrayed by the governors unilateral decision. It has alienated an already skeptical and suspicious community, making it that much harder for leaders to get the community to buy in on important safeguards needed to stop the spread. The anger and dismay is real. Our schools and shuls are the lifeblood of the community. I worry this sets us back significantly in the ongoing fight against the deadly virus."

In response to *Hamodia's* request for comment as to why the governor indicated on the call that he would stick to a 50% limit but then enacted a 10-attendee limit, a Cuomo spokesperson said, "We were still in discussions with the epidemiologists at the time and they made clear that preventing large social gatherings is the key to breaking up these clusters." The spokesperson did not respond to *Hamodia's* request for comment on allegations about the governor only taking pre-approved questions.

In a statement, Senator Simcha Felder, Assemblyman Simcha Eichenstein, Councilman Chaim Deutsch and Councilman Kalman Yeger strongly condemned Governor's Cuomo's decision. They noted that though they represent the neighborhoods facing coronavirus outbreaks, they have not be involved in he decision making process on how to best address the situation.

They vowed to continue to educate their communities on the importance of social distancing and masks, and indicated they would push back against the shul closures, stating "Americans are constitutionally permitted to worship freely, and Governor Cuomo may be assured that we intend to exercise that right without his interference."

In a statement published by Agudah, the organization indicated it would once again sue the Cuomo administration for religious discrimination. The organization added that however they felt about the new policy, they urged compliance with health guidelines.

Following the outcry after Tuesdays events, there were protests that night in Borough Park. At the protest, City Councilman Yeger told the crowd, "We are not going to be deprived of the right that we have in America, like everybody else in America, the right to observe our religion."

A group of teenagers among the protestors blocked a city bus and pushed around a news photographer. According to social media reports, a counter-protester, himself an Orthodox Jew, was injured during the protest and hospitalized.

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Transcript: Mayor de Blasio Holds Media Availability

October 6, 2020

Mayor Bill de Blasio: Good morning, everybody. We are at a crucial moment in this city, crucial moment in our fight against the coronavirus. Now for seven months, the city's waged a battle and I want to say to all of you, New Yorkers have been heroic in this struggle, fighting back against the coronavirus consistently. Now we have a challenge. We see a rise in cases in certain parts of our city, and we have to get ahead of this. We have to bring everything to bear we can. We're going to have to be tough about it and that's why I put forward a plan to address the situation and yes, it involves tough restrictions, nothing we want to do, but the kind of thing we need to do and do quickly to get ahead of the problem, to keep this problem limited, to address it in a matter of weeks and not let it spread further.

So, look, we know so much more now than we did at the beginning of this struggle back in March and April when we had so little testing, when we had so much less knowledge about this disease, our fight was very, very difficult, and yet this city did fight back and get to a much better place. Now we have the advantage of much more knowledge, much more testing, and much more understanding amongst the people of the city of what they have to do and they've shown it time and time again. These realities should be great advantages as we fight back these specific problems in specific areas. But again, it will all come down to you, to everyday New Yorkers doing the right thing for yourselves, for your families, for your communities, by practicing the basic rules, basic vision that has worked for us over and over again, the wearing the mask, the social distancing, just doing the smart, basic things that have everyone does together, we turn the tide in our favor.

So let's give you a picture now of what's happening right now in this city. We have a new map that provides a sense of where the challenges are, where the hotspots are, and right now, again, we have nine ZIP codes where we have seen the positively level for the coronavirus above three percent for seven consecutive days. It remains nine ZIP codes. Then we have our watch list and that's tier two where we're watching areas that are in danger of entering that top tier of a particularly troubled ZIP codes. We have a new ZIP code we're adding to that watch list and that is 11206 South Williamsburg, that brings the watch list total to 13. So, again, we're staying stable with nine in the top category

where we need the most action, the most restrictions, 13 that are being watched, and those 13 do not need to end up in that top category. They do not need to experience those deeper restrictions. So, you can see the number of days consecutive over three percent, thank God, not yet into that category, but we're warning people in those communities to really buckle down, to take all the right precautions, to take it seriously. You do not want to see these restrictions in your community. You can do something about it. You don't want to see small businesses closed in your neighborhood. You can do something about it. Right now, there is time to turn things around. That's why we're providing this information to the public in an urgent manner.

So, in terms of the nine ZIP codes I've proposed, I think the way forward, clear sharp restrictions applied quickly. Now obviously with our schools in the nine high risk ZIP codes, those schools, both public and non-public are closed as of this morning. This will be for several weeks, the faster we address the problem on the ground, the faster the community participates, the quicker we can get those schools open again, and as little as two weeks, hopefully no more than four weeks, but we all have a lot of work to do. Now, again, we chose to close the schools out of an abundance of caution, thankfully in our school system, including in the effective ZIP codes, tier one, tier two, we are not seeing any unusual problems, anything out of the ordinary in our schools, thank God. And we continue to do testing outside of schools and in schools, in those effective ZIP codes, testing teachers, staff, watching for problems. I'll give you example, just the last few days we've gotten 1,351 test results from 35 schools in those nine top ZIP codes and only two positive tests among the 1,351 results we've gotten so far.

So, get – excuse me – our educators, our staff school communities are doing a great job. They're doing the right thing. They're being smart about things. Folks understand the hand-wash and the hand sanitizer, the social distancing, the face mask. If sick, they're staying home, people are doing this the right way and it's proven by the testing we're seeing at our schools. So we're going to keep that testing going in the 13 ZIP codes on the watch list, constantly moving from school to school each day, to keep a clear picture on what's going on. Now, the plan related to the nine ZIP codes, obviously presented at the State. We had conversations yesterday morning. I spoke with the Governor and our teams have been talking throughout the day yesterday, constructive conversations, productive conversations that are going to continue into this morning, and we need obviously a clear decision in the course of today. So, we can move forward. The plan I've presented is the template to address this. The State is looking at that template. We understand is their ultimate decision. They can modify as they see fit, but the important thing is to come to a decision quickly so we can get going. We are prepared to implement as soon as tomorrow morning in those nine ZIP codes once we have the sign off from the state.

Now, in the meantime, again, what everyone can do, you're going to have this constant question, how long do these restrictions have to be in place? And I'm going to be talking to a lot of people in the community, I have been already, and my message is the same, you can keep it to a matter of weeks, but everyone has to participate. Everyone has to be part of the solution. If we all do this right, which we did before in much tougher circumstances, we contain this problem to a limited part of the city for a limited period of time, then we reopen in those places and keep moving forward. If we do it wrong, it keeps spreading into surrounding ZIP codes and that endangers the whole city. We cannot let that happen. So, everyone has to be part of the solution.

Now, today is a Tuesday and as always, we talk about testing on Tuesday, get tested Tuesday, look again, what works? Testing, testing, testing, we can say it so many times. You cannot say it enough times, because there's still a huge number of New Yorkers who've never been tested even once. It helps this whole city to get tested because it gives us a picture of what's going on and helps us

understand where our challenges are and what to do about them. So again, if you have never been tested, please go get tested right away. If you haven't been tested a long time, please go get tested. It is fast. It's easy. We need New Yorkers, not just in those nine ZIP codes or those 13 on the watch list, but everywhere to get tested. The faster we get the truth, the faster we can act. Now, everybody we're expanding testing capacity throughout the city, constantly getting it where it's needed most, but remember we have over 200 sites all over the city. Everyone has a place near them. Always free, always quick. If you want to know where to go, just go online, nyc.gov/covidtest for locations or call 2-1-2-COVID19, and again, all tests is free.

Now I mentioned the importance of testing at the schools. We've been doing the testing of staff and educators outside schools, and in schools. Starting later this week, we're going to be starting the systematic medical monitoring of schools all over the city. We'll be doing that for every school once a month for the duration of this crisis and it's a way that we get more information, get to watch carefully what's happening. Keep everyone safe. This begins in some schools this Friday, we want to make sure that everyone is participating, that means educators, staff. It means students, everyone. Now, obviously educators and staff are overwhelmingly, ready, willing, and able to get tested, but we need a sign off form. We need a consent form from parents to get a kid tested at their school. So families can now complete the consent form online. You go to your NYC school account and you get that at mystudent.nyc. So just go to mystudent.nyc, your own account, enter in the information on the consent form that automatically makes sure the school knows that your child can be tested.

And look, to all the parents out there. I'm a parent. I want to say this to all of you. This is such a good and smart thing to do. The school community is working very closely with the Department of Health and the Test and Trace Team to make sure everyone is tested, tested quickly, safely, obviously for free. It's a great way to know what is going on in the school and keep everyone safe. You will get the results for your own child, this is a random sample in the sense of it's not every child every month, certain children some month, other children another month. But whenever there is a test of your child, you'll get those results quickly and that's important for your peace of mind. So, all families should participate and sign up on that consent form. The school will be reaching out to you about it as well. If you have any questions or concerns, and obviously we'll talk to people in whatever language they speak to help them understand how this works and to encourage them to sign that form.

Now, families always have questions about testing, want to know more, want to know how it works. Is it fast? Yes. Is it safe? Yes. Is it quick and easy for your child? Not too cumbersome, not too difficult for your child, yes, but we want to not just tell you that we want to show you that, so we've put together a video with one of our eight Health + Hospitals pediatrician and a young volunteer to give you a sense of how things will work. Let's look at the video.

[Video plays in background]

All right, well, thank you, first of all, to Dr. Katie and all our colleagues at Health + Hospitals and everyone who's going to be part of the school testing program. That video really says it all. And look, parents, I want to say to you, as you can see, are very energetic, young volunteer there, had a cool hairstyle too, that he did not have a problem with that test because it's not the long instrument they used to use. It is the much shorter, simpler, just a quick rub around the inside of the nostril and it collects the sample really easily, really quickly. I've had this newer kind of test. It is much better, much simpler. That's what we'll be providing the kids and it's as quick and easy as you just saw there.

Now let's talk since we're talking about kids, we're talking about schools, let's talk about what we need to do to make sure that kids continue to be educated during this pandemic. Now that we have our whole school system open, our buildings open, we have kids in classrooms, we have kids

obviously in the blended approach where they're in class part of the week at home, working online for the rest of the week and other kids in all remote, but what does it require? It requires every child has the technology they need. Now in the spring there was an absolutely astounding effort to get technology in the hands of kids who needed it, an emergency effort that was really admirable, and I commend everyone at the DOE and all the partners in the private sector who helped make that possible, 350,000 iPads were distributed beginning of March, and it was one of the greatest efforts to address the digital divide in this city's history. Overall, the Department of Education has 950,000 remote learning devices available for students, some obviously are kept in schools, others are given to kids to take home. That supply has been extraordinary and has reached so much of our needs, but we still have additional need for 100,000 more iPads according to the surveys we've taken from parents and families. So, the additional 100,000 iPads are being procured, now they will be provided to students starting next month. Again, any student who still needs an iPad will get one, or if their iPad broke or there's any problem, we'll replace it. We need the remote learning, whether it's part of the week or all week for a child to work, we need them to make sure they get the technology they need, and we will.

Okay, let's go to our indicators now for the whole city. Indicator number one, daily number of people admitted to New York City hospitals for suspected COVID-19 threshold is 200 patients. Today's report is 70 with a confirmed positivity rate for COVID of 21.4 percent. Number two, new reported cases on a seven-day average, threshold is 550 cases, today's report 501 cases. And number three, percentage of people testing positive citywide for COVID-19 threshold is five percent, today's report 1.90 percent, and the seven-day rolling average today is 1.65 percent. A few words in Spanish.

[Mayor de Blasio speaks in Spanish]

With that we'll turn to our colleagues in the media. Please let me know the name and outlet of each journalist.

Moderator: Hi, all we'll now begin our Q-and-A. We're joined today by Health Commissioner, Dr. Dave Chokshi, Health + Hospital CEO Dr. Mitchell Katz, Schools Chancellor Richard Carranza, Senior Advisor Dr. Jay Varma, and Jeff Thamkittikasem, Director of the Mayor's Office of Operations. With that, we'll go to Gloria from NY1.

Mayor: Gloria?

Question: Hey Mr. Mayor.

Mayor: Hey, how you doing?

Question: Thank you. I wanted to ask you about something that the Governor said yesterday, and I want to get your reaction because I believe there's a little bit of confusion going around, and I saw that you mentioned the amount of testing that had been done at schools that are in the cluster ZIP codes. Part of what the Governor said yesterday was that the virus transmits, and that's a direct quote from him, "in schools because different communities come together in schools and therefore it is a place of transmission." I'm wondering if I could get you to weigh in on that as well as the medical experts on the line about whether or not the city believes that schools are a problem as it pertains to the spread of the virus.

Mayor: Let me start and I'll turn to Dr. Varma and Dr. Choskhi. Gloria, that is not what we're seeing. We're going by the facts. We're going by the data. We've had the situation room up now for most of a month. Literally every single day reviewing data from every single school, 1,600 schools in the school

system, all reports of potential coronavirus being followed up on and on top of that targeted testing initiatives at the schools. What we're seeing in the school system in general is a very low level of coronavirus activity. Now, I'm going to tell you that the facts that I know, but I want to start with the why, why would that be? Because the schools are now so concentrated in terms of the safety and health measures, what we're doing, we've talked about this gold standard we set, just think about everywhere in the city, everywhere in your life.

Here, we have a place where everyone is wearing a mask scrupulously. I've seen this with my own eyes, from the youngest child to the oldest educator, everyone's wearing a mask together. Everyone's practicing social distancing, nine, ten kids in a classroom. We've never seen anything like that in New York City history. Cleaning constantly, ventilation, you name it, all of these approaches layered on top of each other. That makes it a particularly safe location. Clearly folks who are not feeling well, staying home, been a lot of testing before school began, there'll continue to be more testing. What we saw with the tens of thousands of educators and staffs that we have tested so far, it was a positivity level below one half of one percent. So, the facts keep coming in, and I told you this recent batch of tests at schools in the nine ZIP codes, 1,351 tests of educators and staff came back with only two positives. So, I think the schools are proving to be very safe to the credit of everyone at DOE, everyone at Test and Trace and Department of Health. And this is what we want to continue, because this is crucial to the future of the city is to keep our school systems safe. So, Dr. Varma, Dr. Chokshi, would you offer your reflections?

Senior Advisor Dr. Jay Varma: Sure, I can start. Yeah, I think the Mayor actually covered everything quite comprehensively. We need to remember that we have many lines of defense to keep our schools safe. We actually have lines of defense that are very similar to what you would have in a healthcare facility, you know, we have people wearing masks. We have people maintaining physical distance. We have extensive hand hygiene, we have environmental cleaning, and then of course we have guidance that's being followed up and tested that people stay home, and avoid going to school if they have any symptoms of illness. Those are critical lines of defense, and it's not just New York City. We have seen evidence from everywhere around the world, and this is a disease that if people take the appropriate precautions and the institution enforces compliance with those precautions, our kids can get an education and our teachers and staff can remain safe. That is in controvertible. I know an issue that keeps coming up also is about testing. You know, I'm a real zealot when it comes to testing, because I think it's absolutely critical to controlling our epidemic around the city, and we have evidence from that from around the world. But testing again, isn't our first line of defense in the city. What we're instituting is a medical monitoring program, because it's going to help us understand how much undiagnosed infection is there and are our prevention measures working the way they should. So I just wanted to make sure that we highlight and understand where testing falls in the hierarchy of those lines of defense.

Mayor: Dr. Chokshi?

Commissioner Dave Chokshi, Department of Health and Mental Hygiene: Nothing to add to what's already been said, sir.

Mayor: Thank you, doctor. Go ahead, Gloria.

Question: Okay. Thank you, and if I could, Mr. Mayor, ask you about this back and forth regarding the nonessential businesses. It seems like there was a disagreement about whether or not the city should do this by ZIP code. The Governor seemed to suggest yesterday this was a flawed approach. You know, the virus doesn't travel by ZIP code, it does not recognize ZIP code. So do you have an understanding of what the Governor's problem is with your plan and are you working on that, and do

you think that maybe there is a way to do this, that isn't just ZIP code focused, since there is a recognition that yes, people do move around, that people are not confined to one specific area or ZIP code, and that there – maybe there's a smarter way of doing this?

Mayor: I'll start and I'll turn to Dr. Chokshi. Look, we obviously, over the last few days, talked through different models. The Governor had an impulse that I share to say, was there some way to, for example, use census tracts – we found that to be not as helpful as I would have liked because we saw again that we had not only within a ZIP code particular high levels, but we saw it starting to spread to the other areas of the ZIP code. So, the idea here is to of course, focus on the places that are having the toughest situation, but also surround them with activity to make sure that we do not allow spread. So, if you are restricting in the places that are really, really the toughest, you also want restrictions in the immediate surrounding perimeter, and that's why the ZIP code model actually, the more I looked at it, the more sense it made. It was a way to stop the spread from going into more and more neighborhoods, and ZIP code has the advantage, Gloria, that it's not something like everyone knows what the ZIP code is of every building that they go to or every school or whatever, but it's easy to find out. People certainly know their own household ZIP code. It's easy to find out if your store, if your school are in that ZIP code or not, and that was an advantage compared to other demographic or geographic measures we might use.

As to the Governor's team, they – again, good conversations yesterday. They'll continue today. We're looking forward to a decision today. Best of my understanding they did not present a specific alternative. I said, look, here's what I propose. This would work. We all understand what the ZIP code is. This would work. Let's go. We have to act decisively. If they have a different model, it's their call and we'll work with whatever model they choose, but we have to move quickly. Dr. Chokshi.

Commissioner Chokshi: Yes. Mr. Mayor. Just to add briefly to what you've said – what we have to do is match up the epidemiology of the virus, you know, understanding how it is transmitted, the speed with which that spread can happen, with the practical considerations around how to implement these difficult local restrictions and you know, that's how our team has landed on the ZIP codes as the best geographic way to set the boundaries for what we're moving forward with. I'll say two more things. One is that we know that we have to move swiftly that you know, this, this virus has such a formidable foe and so the plans that we have proposed to the state are meant to be able to be brought into action as quickly as possible, and the second point is just to emphasize one thing that the Mayor said, which is that we have been in dialogue with our counterparts at the state, including health officials at the state level to explain our reasoning you know, to explain why it is that we selected the particular ZIP codes that are of greatest concern, and I think there is a lot of shared understanding about the urgency of the situation.

Moderator: We're also joined by Dr. Ted Long, Executive Director of the Test and Trace Corps. With that, we'll move on next to Jen from the AP.

Question: Good morning, Mr. Mayor, how are you?

Mayor: Good, Jen, how are you doing?

Question: Fine, thanks. I guess my first question would be have the hospitals at all started to prepare for a potential surge in patients? Are any of those plans being reactivated?

Mayor: Yeah, I'll start. I'll turn to Dr. Katz. Jen, what we're seeing so far, and, you know, we obviously are very careful and cautious in our assumptions. What we're seeing so far is actually the number of hospitalizations has not moved much. Although the positivity levels for coronavirus have increased,

but still low compared to what they were in the past, so meaning within – among the folks who were in the hospital – but we certainly have to be ready for a higher level of hospitalizations. I would say right now, if this is our starting point, we're in a much better place than we were obviously in the spring, because whatever is happening now has not moved very quickly in terms of hospitalizations. But yeah, we have to be ready in case of any scenario. So go ahead, Dr. Katz.

President and CEO Mitchell Katz, NYC Health + Hospitals: Thank you, Mr. Mayor. The 11 hospitals of Health + Hospitals have been a great barometer of the city activity for COVID. We saw many of the trends ahead of anyone else in the last round. I'm very pleased that right at the moment, there are only two patients in the 11 hospitals who currently are on a ventilator due to COVID. So, it is very low, but we nonetheless course have plans for how we would deal with the surge if it were to happen. Every single hospital based on its experience of what works, and frankly, what didn't work in March and April, has a new plan. We know the details, what wards we would open, who would get, who would staff those wards, what the correct order of it, how we would transport patients. There was a tremendous amount that was learned in dealing with the epidemic in March and April, and we'll be prepared if there is another search.

Mayor: Go ahead, Jen.

Question: I also wondered whether – it's a bit of an offbeat question, I guess – but in trying to refine strategies for containing this latest flare up, has any thought been given to tailoring restrictions by some factor, other than geography, such as people's level of risk, like age group?

Mayor: Jen, I'll start and I'll turn to Dr. Varma and Dr. Chokshi. I think one of the things we learned last time, obviously a really, really bad situation in March and April, but we learned a couple of things: move as fast as you can, be decisive, it's much better to put too many restrictions in place and solve the problem quickly than to delay putting restrictions in place. So I think when you parse too much, just as a common sense matter, when you parse too much, you run the risk of too many avenues being left open for the spread of the disease. I think if you say let's really buckle down for a concentrated period of time again, weeks, if done, right, and make sure you're grabbing the whole area that needs to be addressed. You have a much better chance of stopping this problem in its tracks before it reaches the rest of the city. That that's my layman's interpretation, but Dr. Varma, Dr. Chokshi, you want to speak to that?

Senior Advisor Varma: Sure, thanks. I think, you know, the Mayor has summarized it quite well. These restrictive social measures are a bit of a blunt instrument. We reserve them for only situations where our individual measures and our testing and tracing can't keep up with epidemic spread and they have to be applied in an area broader than we might like just simply because of, of the complexity of how societies work and people interact. What you're asking specifically about is an approach that in public health terms, they use the term, the shielding or cocooning, which is it possible to have the most vulnerable people kind of avoid high risk activities and in a way quarantine themselves so that people who are at lower risk and continue their activity, you know, that, that has a lot of theoretical strength to it. But the practical experience for many places in Europe that attempted this early on has really not borne out, and that's because we are all connected to each other. If you're let's say elderly and have medical conditions you need people to help you, and those people are in connection to other people. So, you are really just one or two degrees of separation from other people, and it's really not very effective to try to shield a very large population this way.

Mayor: Dr. Chokshi?

Commissioner Chokshi: Thank you, Mr. Mayor, and thanks for this very good question. I'll just add

briefly to say number one, it's absolutely right that geography matters. We know this from our experience with the coronavirus globally. Geography does matter, and that's why the plan that we have proposed focuses on geography in that way. But in addition to what Dr. Varma said there are other ways, you know, that are not mutually exclusive with thinking about geography as a way to address risk. Particularly, you know, higher risk settings whether it's a healthcare setting, you know, a nursing home or other areas where we know, you know, there are higher risk activities, particularly things that are indoors. Those are also places where we can bring to bear additional ways to protect people in those higher risk settings. You know, ensuring that that the bread and butter of our prevention strategies, you know, the so-called "core four" are, are practiced and adhered to in particular, in those settings.

Moderator: Next step is Henry from Bloomberg.

Question: Mr. Mayor, how are you doing today?

Mayor: Good Henry, how are you?

Question: I'm okay. I've got a couple of questions here. With students who are in these affected areas can still go to schools outside the affected areas, if I'm not mistaken, and if so, does that create an elevated risk?

Mayor: I'll tell you what I think, and Dr. Chokshi can jump in after me. I don't not believe, Henry, I do not believe it creates an elevated risk for a couple of reasons. First is that we see the schools taking extraordinary measures to keep kids and staff safe and it's working. So if kids will be going into a very safe environment and remember the second factor, the screening – we're telling every parent, it is their obligation to screen their child every day. If there's symptoms, your child stays home. If there's a temperature, your child's is home. If the kid gets to school and there's a temperature to child goes to isolation, is sent home. So there really are safeguards to ensure that if an individual child is even symptomatic that, that is addressed right away. Dr. Chokshi?

Commissioner Chokshi: Thank you, Mr. Mayor. No, I would just briefly emphasize, you know, particularly today as Get Tested Tuesday, we do have a, a simple and clear message for anyone who lives in the affected areas in particular, which is to get tested immediately whether you're a student or someone else who is in that ZIP code, and we think that will also add the layer of protection as the Mayor mentioned.

Mayor: Go ahead, Henry.

Question: Okay. So, thank you for answering that. My other question has to do with, just bear with me here for the – I kind of lost it. Let me see if I can—

Mayor: We can bring you back if you want?

Question: Bring me back in about a minute or two, thank you.

Mayor: You got it.

Moderator: Next up is Derick from WABC.

Question: Hi, good morning. I had a question about this incident that happened last night in Borough Park, the warehouse where the FDNY was seen sawing their way inside, there were reports of 500 people inside, and that it's our understanding that despite some fire safety violations there were no

summonses issued for violating any of the COVID-19 orders. Could you talk about that? Should there have been summonses issued in that situation?

Mayor: Derick, I am waiting to get the full details. I've only gotten a basic report this morning. The most important fact here is, first of all, there never should have been a gathering like that, and the folks who organized it did something harmful and that has to be addressed and we'll address it, certainly in terms of those individuals. Second, the important point, the FDNY got there to address the situation and disperse people, but in terms of summonses and other consequences, I'll get you an update on that. Obviously, something like that cannot happen, particularly in the middle of a crisis where certain ZIP codes are showing of a particularly high level of this disease, and it's a danger to everyone. People have to be smart to not let something like that happen, and there will obviously be consequences. Go ahead.

Question: And then my second question is related to schools. You had mentioned a short time ago that just a couple of coronavirus cases are linked to the schools. I think you said two out of 1,300 tests were positive in those nine ZIP codes, and so based on that information, why go ahead and shut down the schools if by your own admission, you know, people are following the rules, they're wearing masks. If there's very few cases in the schools, then why close the schools?

Mayor: Yeah, Derick, it's a very fair question. This is an imperfect reality, obviously. The fact is across the whole city, the schools are doing a tremendous job and the numbers bear it out, and it is striking testing, you know, staff and educators in the nine ZIP codes at that level, 1,300 tests plus, and getting only one positive back or two positives back. I mean, that's amazing. So in a perfect world, we'd say, hey, let's just keep things going. But I think the reality is if we're really trying to restrict movement and activity within the ZIP code, if we say here are nine ZIP codes out of 146 in New York City that are particularly problematic, we really want to bring the level of activity down. So, let's close the public and nonpublic schools. Let's close the non-essential businesses. Let's encourage people to stay home. Don't go out unless you have to go out and go back to the reality. We had more in the spring, but in a concentrated area, it just stands to reason that even though the schools were doing quite well, we just want to reduce the amount of overall activity for a few weeks, hopefully only, and really stop this spread quickly.

Moderator: We're going to go back to Henry for his last question.

Question: Thank you very much. Actually, that last question and the first question that I asked you pretty much covers the subject of that question. But I have another question for you, which goes back to the continuing theme of the relationship between the City and the State, this governor and your administration, and whether or not just latest split on how do geographically define the areas of risk is another example of how not being on the same page might make just pandemic more problematic.

Mayor: Look, Henry, I think it's pretty straightforward. First of all, again, mayors and governors, not just in New York, but all over the country, will have differences. We have different jobs to do, different interests to look out for. My job is to look out for the people in New York City, nothing else – my job is to look out for the people in New York City. So, right now, I see a problem in Brooklyn and Queens. I want fast action. I want the State to take action because of the emergency status we're in. If we were not in this emergency status, I'd be taking the action myself would be ready to do that right away. I also want the State to look out for New York City, because there's a larger problem in other parts of the state and the metropolitan area. We see other clusters, whether it's Nassau County, Orange County, Rockland County, I want them acted on for the good of the people in those communities, but also to stop the interplay between different parts of the state that could be exacerbating this crisis. So, my job is to look out for the people in New York City. And I think that reality, you know, city,

government, state, governments, federal government often don't see eye to eye have different worldviews, that's normal. But I think if you asked the question here, where have we ultimately gotten? I think the vast majority of times, the City and State have gotten to the right place together. Sometimes we start with different perspectives, but we end up getting where we need to get in the vast majority of cases. So, look, my job here was to put out to the people of the city the reality, that it became clear that we had a bigger problem that required restrictions, no one likes restrictions, but it was time to say it out loud. My job was to say that to propose action, because we need the State's approval. The State has every right to ask tough questions or look at the model and see if they want to alter the model. That is their right under the law. It's just important they do it quickly and decisively so we can all move forward. So, really, the proof's in the pudding, Henry, so long as we keep getting somewhere, so long as we keep making the decisions together and getting to results, that's what ultimately matters.

Moderator: Next step is Marcia from WCBS.

Question: Good morning, Mr. Mayor. How are you doing good?

Mayor: Good, Marcia. How have you been?

Question: My first question has to do with enforcement. And I know yesterday, the Governor made light of the amount of enforcement that New York City has been doing. And today on NY1, Commissioner Shea was asked about whether he would give a stricter rules to the police officers in the communities about being strict about giving more – more of fines and sentences – fines and things like that. I wonder if you think that more fines for not mask wearing is something that you should be doing, whether you should step up enforcement, and whether you're going to provide NYPD manpower to the Governor's task force?

Mayor: Yeah. No, I spoke to that already. You know, last week, Marcia, we had over 1,000 City personnel out in the most affected communities, including NYPD, Sheriff's Office, Office of Special Enforcement, Health Department, Sanitation Department. They were all out doing enforcement, as well as doing education and mask distribution. It was 400 officers each day last week. We're going to keep increasing that. And as we have additional ZIP codes we need to deal with, we'll literally keep increasing as much as we have to. Absolutely, we've been doing enforcement for weeks and weeks. In fact, we've closed down businesses, closed down yeshivas, issued summonses, you name it. But what I think is clear here is this is a problem beyond the normal enforcement approach. This is a problem that requires larger restrictions for the community, because we tried in the past and had success in Sunset Park in Brooklyn, in Soundview in the Bronx, in Southeast Queens. We tried an approach that was heavy on outreach, education, masks distribution, of concentrated testing, and enforcement wherever needed – and that worked. In this instance, we saw this problem grow, tried the same strategies, tried more enforcement, it was not turning the tide the way it needed to, because you can only enforce in so many places at so many times. We're now at the point where we need restrictions, hopefully only for a few weeks to really turn the tide here. Go ahead, Marcia.

Question: I also wonder, Mr. Mayor, whether there – because there's a lack of secular education in some of these troubling communities that leads to a lack of compliance, because they don't have the secular education, maybe they don't understand it. Do you think there's a correlation between the lack of secular education and the lack of compliance?

Mayor: I can't – I can't speculate on that, Marcia. I think what we have to do throughout all these ZIP codes is work with everyone. I mean, we've seen tremendous support from community leaders and community institutions. We've seen intensive efforts to educate people on the importance of mask

wearing, the importance of social distancing. We've seen masks distribution drives. I think there's plenty of good messaging coming from community leaders and institutions telling people how important it is. I think there are some voices in many communities, not just here in New York City, we're seeing it all around the country – there are some voices telling people not to wear masks, telling them coronavirus is a hoax. You saw a very painful example of that when Dr. Katz and our other health care leadership gave a press conference a week or two ago, and it was interrupted by a community resident, literally saying the coronavirus is a hoax. So, we have some of that out there. But, overwhelmingly, the community leadership has sent a message that's very consistent with what our health leadership is saying, and everyone is working together to try and solve this problem.

Moderator: Next step is Juliet from 1010 WINS.

Question: Oh, hi. Good morning, all. Good morning, Mr. Mayor. How are you?

Mayor: Good, Juliet. How are you?

Question: I'm okay. Thank you, thank you. So, you just said a couple of minutes ago that schools and some of these non-essential businesses might be closed for a few weeks. What criteria will you use to reopen and how – excuse me – how systematic would that criteria have to be maintained in order for everything to reopen?

Mayor: Yeah, it's a very important question, Juliet. I appreciate it. Look, what we tend to see with the coronavirus – and I've been trained by our great health care leadership here to look for these patterns – there really are pretty clear patterns. When there's an upswing, it tends to go up over a period of days and weeks. When starts to turn in the right direction, you also see that emerge over a period of days and weeks. So, the two-week scenario is the ideal. And I'm not saying it's likely, but it's the ideal. It's the one we want everyone to shoot for, where from the moment the restrictions go into place, two weeks later you can come out of the restrictions. If the full two weeks has passed and the last seven consecutive days that ZIP code was under three percent positivity seven days in a row, that would indicate a trend, obviously. And that's what we be comfortable lifting the restrictions. Now, again, all this is ultimately the decision of the State of New York, but I'm going to keep being very vocal about what we think will work and what we need. We want those restrictions to just be as long as they need to be, not a day more. So, that's the ideal scenario. The other scenario we put forward is a 28-day scenario, four weeks, where if you can't meet that first standard, second standard is go four weeks, if by the last day, the 28th day, you're down below three percent, again, that should show us that enough of the trouble has passed, that we can lift the restrictions. Now, Juliet, people have to take this seriously. If they don't do the work, if the people in every community don't do the work, it could go on longer, and no one wants that. So, ideally, with a lot of, you know, buckling down, a lot of real teamwork and effort by people in communities, you can get this done in just a few weeks, maybe more like three, four weeks, but our goal is weeks and then get the restrictions off. Go ahead.

Question: Okay. Thank you. Also, has anyone in these ZIP codes – in the nine ZIP codes, has anyone been given a summons for not wearing a mask?

Mayor: Yeah. We'll get you those numbers. As I said, there's been a whole range of summons activity and enforcement activity, whether it is yeshivas that were shut down, stores that were shut down, people who were given summonses for not wearing a mask or anything else. But remember, this is an area where we've been adamant, because we know it works. The goal is to change behavior, never, ever wanted to penalize for the sake of penalizing. We've wanted to change behavior. We distribute the masks. If people take the masks and wear the masks, that's what we care about. If someone refuses, that's going to be a penalty right away.

Moderator: We're on to our last two. First, we'll go to Narmeen from PIX 11.

EXHIBIT 3-6

Question: Hi. Good morning, Mayor.

Mayor: How are you doing?

Question: Good, doing well? I want to also – on what Juliet had said – we'd also like to see the numbers on the summons and fines in those nine ZIP codes. So, if your office could get that to us, we'd really appreciate it. But I also think that there's maybe some confusion or maybe some clarification needed for City residents about what City inspectors for compliance of things, like mask wearing, should or does look like. And I want to give you an example – we were in Borough Park for some time in the vicinity of 14th Avenue and 42nd street. And our observations showed minimal masks wearing. We drove around about a 10-block radius and we only saw a handful of people maybe wearing masks. When they saw our cameras come out, people would take it out of their pockets and put it on. We did not see NYPD vehicles with those loudspeaker messages that we saw last week. And we didn't see any obvious signs of City officials going around giving those summons. I mean, this seems to be an area that is in clear defiance of what the Governor and you are talking about.

Mayor: Look, that's not the way I would define it, because we have been working with community leaders and community institutions, getting a lot of support. We've definitely seen an uptick in mask usage, but it's not where it needs to be. We have had loud speaker messages out now for the last week or more. We're going to continue that, of course. There's a lot of ground to cover. So, I respect that you were in a very good location, that's an area I used to represent the City Council, so you chose well. But, look, we're talking about nine ZIP codes. That's a lot of ground to cover. So, we have our folks out over a very broad area, getting this message out all the time, taking the enforcement action. But I want to be clear, again, I think there's a dissonance that has to be addressed very bluntly here. We did all the same measures in a number of communities, and it worked, and things turned around quickly – again, Sunset Park, Soundview, Southeast Queens. We put out the free masks. We did the education. We did the outreach. We did the intensive testing. We were able to turn the situation quickly. We're not seeing that in these nine ZIP codes. It's past the point where enforcement solves your problem. So, people can keep focusing on enforcement. If there's a role for enforcement, it's past that point. Now, the facts on the ground make clear we need restrictions. Enforcement would have worked as it did in the other places. If it had worked that same way as it did in the other places, we wouldn't be having this discussion. We need something stronger and we need it quickly. We need restrictions to stop this problem. Go ahead.

Question: Mayor, have you found it any of those nine ZIP codes to be any more challenging when it comes to enforcement for any of your City inspectors, any ones that stand out that you believe the City has to work, maybe, harder on?

Mayor: I have not heard that specifically. I think what we've seen is that the more education, the more outreach – yes, we've used those sound trucks, the more messages from community leaders, the more impact it makes. But we are fighting against a situation – as I said, there are some parts of the community where there are negative messages being put out, telling people not to wear masks and that coronavirus is a hoax and all that. We are fighting that problem. We are fighting the problem of people, of course, having had the fatigue of being through this crisis now for seven months. And that's understandable. It's hard to keep your guard up for so long. But what we do know is more and more, we're getting support and help from all facets of the community and that restrictions, unlike any of these other tools, restrictions are crystal clear. If non-essential businesses are closed, if public and non-public schools are closed, it's really obvious if someone is violating and you can take instant

action on that. That's the kind of measure we need now.

EXHIBIT 3-6

Moderator: For our last question, we'll go to Katie from the Wall Street Journal.

Question: Hi, I wanted to ask, coming off the businesses question – I know yesterday, you said that you would close down essential businesses. It's contrary to what the Governor and the State – what the Governor said he wants to do. So, if the Governor does not approve the City's plan to close non-essential businesses and these nine ZIP codes, will the City still move forward and enforce the closure of these businesses?

Mayor: So, Katie, I've been really clear, I'm going to be clear again. I don't know how many times I said on Sunday, pending the State's approval, and I say it again yesterday. I also said we would be ready for Wednesday morning. We're not going to put out a plan, seek approval from the State and then not be ready to implement it. We are ready to implement it, starting tomorrow morning. We are waiting for an answer from the State. We cannot act until we get an answer from the State, it's as clear as that. And I'm urging the State to move quickly and be decisive. We were at a moment where we need action. We're not going to defy the State. I've never suggested that in the least. I said, I put a proposal on the table to the State. We will be ready to implement it, but we are waiting for sign off.

Question: Oh, thank you. So, what kind of outreach is being done now? Because I know last night you were asked that this is a pretty confusing situation. I think you said that it isn't, but I think for a lot of businesses in these areas, it is confusing. So, what kind of outreach is being done? Is SBS involved? Are people telling businesses? You know, people might now forget what's non-essential and they might forget if their businesses is essential or what can open. So, what kind of outreach is being done if that does happen?

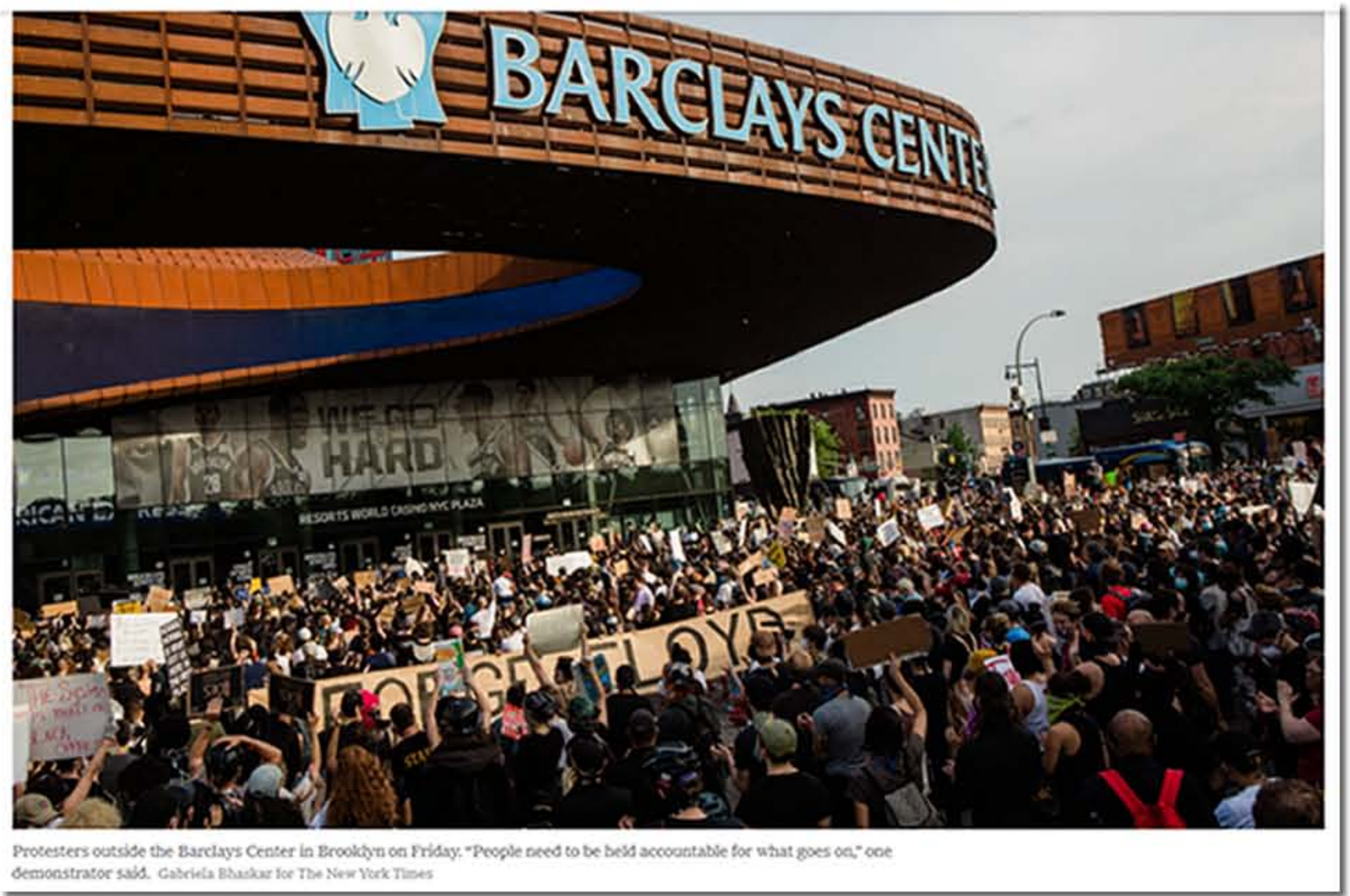
Mayor: Yeah. No, I want to say, I really have empathy for business owners. They've been through so much, this is the last thing they need. It's the last thing they want to hear. I appreciate that. And I want to see these businesses survive, and the notion of even having to close them for a few weeks is painful for everyone. I have empathy for them and I agree, they don't have the clear information they need. I want to get them the clear information they need, but we had to get this situation addressed. And so, I put the proposal out publicly to move the ball, to get things to happen, because my job is to protect people in this city. And we're going to have a decision soon, I'm convinced of that. We will educate everyone in the communities immediately when we have that decision. Clearly, the word has spread. So, by putting the proposal out on Sunday, it gave people a chance to hear it and get ready for it. We will – then, the second we have a final decision from the State, we'll start educating communities. We'll make clear to people what's expected of them. I want to be very, very clear, we do not want to harm anybody. We want to help stop this disease from spreading to more and more of the city. So, we'll get the word out and then we'll start enforcement. Once we've gotten the word out to everyone, we'll start enforcement right away. And at that point, it will be very, very aggressive, because when those restrictions are in place, it'll be crystal clear what's expected of everyone.


Everybody, as we close down today, I just want to say this. Look, this city has come so far, and we came so far by focusing on the data, by focusing on the science. This is what has differentiated New York City from so much of the rest of the United States, and even from a lot of other countries around the world – devotion to following what the actual facts tell us to do. We saw a problem in these last days. It, unfortunately, consolidated. It was time to say we needed stronger restrictions. So, our decisions are based on the data and the science, but in the end, what really changes things, what protects everyone is when the people get involved. New Yorkers are the people who turned the tide last time under the toughest circumstances. New Yorkers will do it again. So, it's the science and the people. And I think this is what was never understood, unfortunately, in Washington D.C. and a lot of

places around the country – devotion to the science and then belief in the people. Once you educate the people, it's up to the people to then take those lessons and act on them. And here in New York City, New Yorkers did that. We're going to do that again and we're going to keep this city safe. Thank you, everybody.

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EXHIBIT 3-8

Your Coronavirus Test Is Positive. Maybe It Shouldn't Be.

The usual diagnostic tests may simply be too sensitive and too slow to contain the spread of the virus.



Tests authorized by the F.D.A. provide only a yes-no answer to infection, and will identify as positive patients with low amounts of virus in their bodies. Johnny Milano for The New York Times

By Apoorva Mandavilli

Aug. 29, 2020



Some of the nation's leading public health experts are raising a new concern in the endless debate over coronavirus testing in the United States: The standard tests are diagnosing huge numbers of people who may be carrying relatively insignificant amounts of the virus.

Most of these people are not likely to be contagious, and identifying them may contribute to bottlenecks that prevent those who are contagious from being found in time. But researchers say the solution is not to test less, or to skip testing people without symptoms, as recently [suggested by the Centers for Disease Control and Prevention](#).

Instead, new data underscore [the need for more widespread use of rapid tests](#), even if they are less sensitive.

“The decision not to test asymptomatic people is just really backward,” said Dr. Michael Mina, an epidemiologist at the Harvard T.H. Chan School of Public Health, referring to the C.D.C. recommendation.

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“In fact, we should be ramping up testing of all different people,” he said, “but we have to do it through whole different mechanisms.”

In what may be a step in this direction, the Trump administration announced on Thursday that it would purchase 150 million rapid tests.

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The most widely used diagnostic test for the new coronavirus, called a PCR test, provides a simple yes-no answer to the question

of whether a patient is infected.

But similar PCR tests for other viruses do offer some sense of how contagious an infected patient may be: The results may include a rough estimate of the amount of virus in the patient's body.

"We've been using one type of data for everything, and that is just plus or minus — that's all," Dr. Mina said. "We're using that for clinical diagnostics, for public health, for policy decision-making."

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But yes-no isn't good enough, he added. It's the amount of virus that should dictate the infected patient's next steps. "It's really irresponsible, I think, to forgo the recognition that this is a quantitative issue," Dr. Mina said.

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The PCR test amplifies genetic matter from the virus in cycles; the fewer cycles required, the greater the amount of virus, or viral load, in the sample. The greater the viral load, the more likely the patient is to be contagious.

This number of amplification cycles needed to find the virus, called the cycle threshold, is never included in the results sent to doctors

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and coronavirus patients, although it could tell them how infectious the patients are.

In three sets of testing data that include cycle thresholds, compiled by officials in Massachusetts, New York and Nevada, up to 90 percent of people testing positive carried barely any virus, a review by The Times found.

On Thursday, the United States recorded 45,604 new coronavirus cases, according to a database maintained by The Times. If the rates of contagiousness in Massachusetts and New York were to apply nationwide, then perhaps only 4,500 of those people may actually need to isolate and submit to contact tracing.

One solution would be to adjust the cycle threshold used now to decide that a patient is infected. Most tests set the limit at 40, a few at 37. This means that you are positive for the coronavirus if the test process required up to 40 cycles, or 37, to detect the virus.

Tests with thresholds so high may detect not just live virus but also genetic fragments, leftovers from infection that pose no particular risk — akin to finding a hair in a room long after a person has left, Dr. Mina said.

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Any test with a cycle threshold above 35 is too sensitive, agreed Juliet Morrison, a virologist at the University of California, Riverside. “I’m shocked that people would think that 40 could represent a positive,” she said.

CORONAVIRUS SCHOOLS BRIEFING: *The pandemic is upending education. Get the latest news and tips as students go back to school.*

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A more reasonable cutoff would be 30 to 35, she added. Dr. Mina said he would set the figure at 30, or even less. Those changes would mean the amount of genetic material in a patient’s sample

would have to be 100-fold to 1,000-fold that of the current standard for the test to return a positive result — at least, one worth acting on.



“It’s just kind of mind-blowing to me that people are not recording the C.T. values from all these tests, that they’re just returning a positive or a negative,” one virologist said. Erin Schaff/The New York Times

The Food and Drug Administration said in an emailed statement that it does not specify the cycle threshold ranges used to determine who is positive, and that “[commercial manufacturers](#) and [laboratories](#) set their own.”

The Centers for Disease Control and Prevention said it is examining the use of cycle threshold measures “for policy decisions.” The agency said it would need to collaborate with the F.D.A. and with device manufacturers to ensure the measures “can be used properly and with assurance that we know what they mean.”

The C.D.C.’s own calculations suggest that it is extremely difficult to detect any live virus in a sample [above a threshold of 33 cycles](#). Officials at some state labs said the C.D.C. had not asked them to note threshold values or to share them with contact-tracing organizations.

For example, North Carolina’s state lab uses the Thermo Fisher coronavirus test, which automatically classifies results based on a cutoff of 37 cycles. A spokeswoman for the lab said testers did not have access to the precise numbers.

This amounts to an enormous missed opportunity to learn more about the disease, some experts said.

“It’s just kind of mind-blowing to me that people are not recording the C.T. values from all these tests — that they’re just returning a positive or a negative,” said Angela Rasmussen, a virologist at Columbia University in New York.

“It would be useful information to know if somebody’s positive, whether they have a high viral load or a low viral load,” she added.

The Coronavirus Outbreak ›

Frequently Asked Questions

Updated August 27, 2020

What should I consider when choosing a mask?

There are a few basic things to consider. Does it have at least two layers? Good. If you hold it up to the light, can you see through it? Bad. Can you blow a candle out through your mask? Bad. Do you feel mostly OK wearing it for hours at a time? Good. The most important thing, after finding a mask that fits well without gapping, is to find a mask that you will wear. Spend some time picking out your mask, and find something that works with your personal style. You should be wearing it whenever you’re out in public for the foreseeable future. Read more: [What’s the Best Material for a Mask?](#)

What are the symptoms of coronavirus?

In the beginning, the coronavirus [seemed like it was primarily a respiratory illness](#) — many patients had fever and chills, were weak and tired, and coughed a lot, though some people don’t show many symptoms at all. Those who seemed sickest had pneumonia or acute respiratory distress syndrome and received supplemental oxygen. By now, doctors have identified many more symptoms and syndromes. In April, [the C.D.C. added to the list of early signs](#) sore throat, fever, chills and muscle aches. Gastrointestinal upset, such as diarrhea and nausea, has also been observed. Another telltale sign of infection may be a sudden, profound diminution of one’s [sense of smell and taste](#). Teenagers and young adults in some cases have developed painful red and purple lesions on their fingers and toes — nicknamed “Covid toe” — but few other serious symptoms.

Why does standing six feet away from others help?

The coronavirus spreads primarily through droplets from your mouth and nose, especially when you cough or sneeze. The C.D.C., one of the organizations using that measure, [bases its recommendation of six feet](#) on the idea that most large droplets that people expel when they cough or sneeze will fall to the ground within six feet. But six feet has never been a magic number that guarantees complete protection. Sneezes, for instance, can launch droplets a lot farther than six feet, [according to a recent study](#). It's a rule of thumb: You should be safest standing six feet apart outside, especially when it's windy. But keep a mask on at all times, even when you think you're far enough apart.

I have antibodies. Am I now immune?

As of right now, [that seems likely, for at least several months](#). There have been frightening accounts of people suffering what seems to be a second bout of Covid-19. But experts say these patients may have a drawn-out course of infection, with the virus taking a slow toll weeks to months after initial exposure. People infected with the coronavirus typically [produce](#) immune molecules called antibodies, which are [protective proteins made in response to an infection](#). [These antibodies may](#) last in the body [only two to three months](#), which may seem worrisome, but that's perfectly normal after an acute infection subsides, said Dr. Michael Mina, an immunologist at Harvard University. It may be possible to get the coronavirus again, but it's highly unlikely that it would be possible in a short window of time from initial infection or make people sicker the second time.

I'm a small-business owner. Can I get relief?

The [stimulus bills enacted in March](#) offer help for the millions of American small businesses. Those eligible for aid are businesses and nonprofit organizations with fewer than 500 workers, including sole proprietorships, independent contractors and freelancers. Some larger companies in some industries are also eligible. The help being offered, which is being managed by the Small Business Administration, includes the Paycheck Protection Program and the Economic Injury Disaster Loan program. But lots of folks have [not yet seen payouts](#). Even those who have received help are confused: The rules are draconian, and some are stuck sitting on [money they don't know how to use](#). Many small-business owners are getting less than they expected or [not hearing anything at all](#).

What are my rights if I am worried about going back to work?

Employers have to provide [a safe workplace](#) with policies that protect everyone equally. [And if one of your co-workers tests positive for the](#)

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Officials at the Wadsworth Center, New York's state lab, have access to C.T. values from tests they have processed, and analyzed

their numbers at The Times's request. In July, the lab identified 794 positive tests, based on a threshold of 40 cycles.

With a cutoff of 35, about half of those tests would no longer qualify as positive. About 70 percent would no longer be judged positive if the cycles were limited to 30.

In Massachusetts, from 85 to 90 percent of people who tested positive in July with a cycle threshold of 40 would have been deemed negative if the threshold were 30 cycles, Dr. Mina said. "I would say that none of those people should be contact-traced, not one," he said.

Other experts informed of these numbers were stunned.

"I'm really shocked that it could be that high — the proportion of people with high C.T. value results," said Dr. Ashish Jha, director of the Harvard Global Health Institute. "Boy, does it really change the way we need to be thinking about testing."

Dr. Jha said he had thought of the PCR test as a problem because it cannot scale to the volume, frequency or speed of tests needed.

"But what I am realizing is that a really substantial part of the problem is that we're not even testing the people who we need to be testing," he said.

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The number of people with positive results who aren't infectious is particularly concerning, said Scott Becker, executive director of the Association of Public Health Laboratories. "That worries me a lot, just because it's so high," he said, adding that the organization intended to meet with Dr. Mina to discuss the issue.

The F.D.A. noted that people may have a low viral load when they are newly infected. A test with less sensitivity would miss these infections.

But that problem is easily solved, Dr. Mina said: “Test them again, six hours later or 15 hours later or whatever,” he said. A rapid test would find these patients quickly, even if it were less sensitive, because their viral loads would quickly rise.

PCR tests still have a role, he and other experts said. For example, their sensitivity is an asset when identifying newly infected people to enroll in clinical trials of drugs.

But with 20 percent or more of people testing positive for the virus in some parts of the country, Dr. Mina and other researchers are questioning the use of PCR tests as a frontline diagnostic tool.

People infected with the virus are most infectious from a day or two before symptoms appear till about five days after. But at the current testing rates, “you’re not going to be doing it frequently enough to have any chance of really capturing somebody in that window,” Dr. Mina added.

Highly sensitive PCR tests seemed like the best option for tracking the coronavirus at the start of the pandemic. But for the outbreaks raging now, he said, what’s needed are coronavirus tests that are fast, cheap and abundant enough to frequently test everyone who needs it — even if the tests are less sensitive.

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“It might not catch every last one of the transmitting people, but it sure will catch the most transmissible people, including the superspreaders,” Dr. Mina said. “That alone would drive epidemics practically to zero.”

Testing for the Coronavirus

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